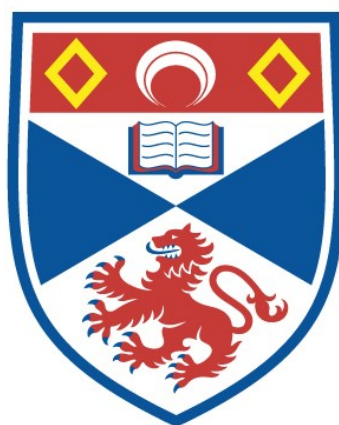


FEMALE PETTY CRIME IN DUNDEE, 1865-1925:
ALCOHOL, PROSTITUTION AND RECIDIVISM IN A
SCOTTISH CITY

Suki Haider

A Thesis Submitted for the Degree of PhD
at the
University of St Andrews



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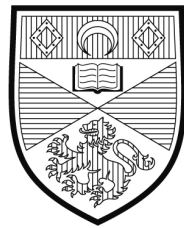
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Female Petty Crime in Dundee, 1865–1925: Alcohol, Prostitution and Recidivism in a Scottish City

Suki Haider



University of
St Andrews

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YEARS

This thesis is submitted in partial fulfilment for the degree of PhD
at the
University of St Andrews

8th May 2012

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Abstract

Late-nineteenth and early twentieth-century Dundee had a strikingly large female workforce and this fact has attracted much scholarly attention. But existing research has not probed the official crime records to determine whether the associated local stereotype of the disorderly mill worker, as a ‘moral blot’ on the landscape, is justified. This study looks at female criminality in Dundee 1865–1925. It finds that drunkenness, breach of the peace and theft were the leading female offences and that the women most strongly associated with criminality belonged to the marginalised sections of the working class. Amongst them were the unskilled mill girls prominent in the contemporary discussions, but it was prostitutes and women of ‘No Trade’ who appear to have challenged the police most often. They were frequently repeat offenders and consequently this thesis devotes considerable attention to the women entrenched in Dundee’s criminal justice system. A pattern noted in the city’s recidivism statistics, and often echoed elsewhere, is that the most persistent offenders were women. The fact that men perpetrated the majority of petty crime raises the suspicion that the police statistics capture differential policing of male and female recidivists – an idea that builds upon feminist theory and Howard Taylor’s stance on judicial statistics. Yet a detailed study of the archives reveals that there are as many examples of the police treating women fairly as there are of gender-biased law. Indeed, several practical constraints hindered over-zealous policing, one of which was the tendency of the local magistrates to throw out cases against prostitutes and female drunks. This thesis, taking the police and court records as a whole, emphasizes that it was generally pragmatism, rather than prejudice, that guided the sanctioning of female recidivists in Dundee.

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I am indebted to the AHRC and the University of St Andrews without whose financial support I would have never embarked on this research. And I am grateful to Dr Tom Jones because without his patience the thesis would not have been submitted. But it is mostly a testimony to my supervisor's encouragement and his faith in my ability that the PhD was completed. Dr. David Allan inspired me to keep going throughout months of extremely difficult personal circumstances. And although his expertise does not lie within the areas covered by this thesis I have benefited greatly from his insights. On his guidance I sought out North American scholarship and the riches I found have had an enormous influence on this research. If the thesis is well written and engaging it is because of him, if it is not then the shortcomings are mine. And because he insisted that I include networking on my list of priorities he also played a part in my meeting Dr. Catherine Lee. Her research of Kent features in the chapters, but it has been her friendship that has had the greatest impact on the work – for it sustained me during periods when it seemed every obstacle was being thrown in the way of my progress.

The academics who generously gave their time to read and comment on sections of the research are mentioned in the footnotes, along with the archivists whose knowledge of the Dundonian sources helped shape the thesis. Here I would like to thank my brother, Dr. David Haider, for his assistance with numerous IT issues and for ensuring that the printed version matched the version on my computer screen. I am also grateful to Pamela and Simon Young for reading early drafts, but especially to Clive Koerner who proof read the entire thesis without complaint even though I had also given him the unenviable task of checking the calculations. He is another whose unwavering commitment to this project has been invaluable.

It is thanks to my mum that I have been able to study in the environment that suits me best – surrounded by countryside and my beloved animals. Pacis and Lucky Jack did not live to see the work's completion. Words cannot convey their importance to me and I miss them both. Finally I appreciate Ash for his patience when it seemed that the PhD was never going to be finished, for his kindness to my horses—especially Cassie—and for all those games he played with an exuberant spaniel and bored collie when I was distracted with work.

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Contents

Declarations	ii
Abstract	iv
Acknowledgements	v
Tables, Figures and Images	x
Glossary of Abbreviated Terms	xii
 Chapter 1	 1
Introduction: Women, Crime and Dundee 1865–1925	
1.0 Setting in the Scene	1
1.1 ‘Scotland a Country with No Criminal Record’	5
1.2 ‘Doing Historical Research is Rather Like Doing a Jigsaw Puzzle’	31
1.2 a) The High Court Sample	32
1.2 b) ‘The Confession of a Jealous Wife’: And Other Revelations in the Press	34
1.2 c) Police Statistics: ‘Abysmally Deficient and Wretchedly Ambiguous’	42
1.2 d) Mary Lily Walker: Dundee’s Own Charles Booth	49
1.3 Breaking Down the Problem into Manageable Chunks	51
 Chapter 2	 54
Female Crime in the Most Drunken City in the Cosmos	
2.0 Introduction	54
2.1 Identifying and Defining the Typical Female Offences 1878–1902	56
2.1 a) ‘Noo, I Ken Auld Janet Cook; / She Drinks Jist Like a Jook’	58
2.1 b) ‘Assault, Breach of the Peace [and] Disorderly Conduct’	59
2.1 c) Petty Theft	63
2.1 d) 5s or 5 Days: The Option of Imprisonment or a Fine	65
 2.2 Offending into the Inter-War Years	 67
2.2 a) The Development of Social Control	73

2.3 The Proportion of Women that Committed Crime	76
2.3a) Slum dwellers, ‘Some of the Finest Christian People’	78
2.4 The Causes of Crime	83
2.4 a) Whisky: ‘The Curse of Dundee’	85
2.4 b) Dundonians ‘Worshipping at the Shrine of Bacchus’	94
2.4 c) Jemima Rose: How Did She Afford to Take a Glass?	96
2.4 d) Correlating Drunkenness with the Jute Trade	99
2.5 Bad Trade, Bad Times, it was Enough to Make the Angels Weep	101
2.5 a) ‘Dinna Speak Tae Me o’ the Guid Auld Days’	108
2.5 b) Seeking an Escape Through Drink	111
2.6 Conclusion	115
Chapter 3	119
Mill Workers, Prostitutes and the Women of ‘No Trade’: The Profile of Dundee’s Female Offenders	
3.0 Introduction	119
3.1 ‘A Perpetual Nuisance’: Prostitutes and Crime	124
3.1 a) There Were ‘More Than 2000 fallen women’	127
3.1 b) ‘She Took Him to Temple Lane. Subsequently he Missed his Money’: Prostitution and Theft	129
3.1 c) ‘Land Pirates’, ‘A Street Porter’s Harem’ and ‘Disgraceful Scenes’: Reading Dundee’s Court Records	134
3.1 d) The Diversity of Female Thieves	144
3.1 e) Prostitutes and Thieves: ‘Virtually One and the Same’	148
3.1 f) ‘She Might Have Had a Bath in Drink’: Drunk and Disorderly Prostitutes	151
3.1 g) The ‘Unfortunates’ in Dundee’s Press	152
3.2 ‘I Have the Labour, I Will also Have the Amusement’: Dundee’s Mill-Worker Offenders	150
3.3 The ‘No Trade’ Defendants: ‘The Backbone of the Local Prison Population’	156
3.3 a) The Core of the ‘No Trade’ Cohort: Habitual Offenders	163
3.4 Dundee’s Recidivist Women	165
3.4 a) Prostitutes and the ‘Middle-Aged Women Who Might Get Drunk and Get up a Row in the Street’	166
3.4 b) Habitual Offenders and Alcoholism	167
3.4 c) Prostitutes: The Most Prevalent Female Offenders	170
3.3 d) Was There a Criminal Class?	171
3.5 Conclusion	176

Chapter 4 **179**

‘More Sinned Against Than Sinning?’: Dundee’s ‘Small Army’ of Habitual Offenders

4.0 Introduction	179
4.1 Dundee’s ‘Incorrigible List’ was Always Heavy	181
4.2 ‘More Women Than Men’: Dundee’s Most Hardened Recidivists 1865–1925	187
4.2 a) Gendered Recidivism a National Phenomenon	195
4.3 Why Were Habitual Offenders Typically Women?	197
4.4 A Debt Owed to Sociology	200
4.4 a) Female Recidivists: Were They Labelled Bad?	201
4.4 b) ‘Such Women Will Deceive In Every Possible Way’: The Female Offender in Victorian and Edwardian Literature	205
4.4 c) Just Because I’m a Woman: The Concept of Double Deviance	213
4.4 d) ‘MARY ANN SCORES HER CENTURY’: Recidivists in the Dundee Press	216
4.4 e) ‘The Mother Drinks!’: A Moral Panic Over Female Offending?	220
4.4 f) ‘A Drunken Woman is a Far Worse Sight Than a Drunken Man’	223
4.5 The Prison and the Poorhouse: Characterizing the Habitual Offender	227
4.5 a) Dundee’s ‘Brawling Sisters’	229
4.5 b) ‘The Awfullest Place That Could Possibly Be’: Recidivist Living Conditions	235
4.6 Conclusion	241

Chapter 5 **244**

Women Recidivists and Criminal Justice in Dundee c. 1865–1925

5.0 Introduction	244
5.0 a) Explaining the Methodology	247
5.1 Discretionary Policing and Sentencing	251
5.2 Women Recidivists and the Police	253
5.2 a) The Attitudes of Dundee’s ‘Oatmeal Monuments’	253
5.2 b) Public Sentiment and Policing	256
5.3 Evidence of Discriminatory Policing	265
5.3 a) The Conviction Statistics	266
5.3 b) Complaints of Police Violence and Fabricated Evidence	266
5.3 c) The Impact of Corruption on the Recidivism Records	271

5.4 The Absence of Discriminatory Policing	274
5.4 a) The Experience of Prostitutes	274
5.4 b) Limits on Resources and Motivation	277
5.4 c) Magistrates Deterring Zealous Policing	283
5.5 Female Recidivists in Dundee, the Absence of Judicial Discrimination	287
5.5 a) Sentencing Inebriated Female Recidivists	289
5.5 b) Sentencing Thieves of Habit and Repute	296
5.5 c) Punishment v Protective Custody: Interpreting the Evidence	299
5.5 d) Protective Custody and the Recidivism Records	304
5.5 e) Margaret Gow: A Case Study	306
5.5 f) Pragmatism and Not Prejudice	308
5.6 Conclusion	313
Chapter 6	
Revisiting Prison Science and the Influences on Female Recidivism	322
6.0 Introduction	322
6.1 ‘Partial and Misleading’: Prison Science 1865–1925	324
6.1 a) The Reach of Prison Science	324
6.1 b) Prison Science: A Manipulation of the Facts	328
6.1 c) Prison Scientists: Labouring ... in Vain	338
6.1 d) Reappraising the Evidence: Women Were ‘Quite as Tractable as Men’	339
6.1 e) ‘Habitual Criminals: [A] Dundee Suggestion for their Treatment’	342
6.1 f) Challenges to Established Scholarship	344
6.2 Possible Factors Implicated in the Female Dominance of Dundee’s Recidivism Records, Other than Discrimination by the Criminal Justice System	345
6.2 a) ‘Detention Causes Recidivism’: Prison and the Habitual Offender	346
6.2 b) ‘A Woman’s Past has a Far Worse Effect on her Future Than a Man’s’	355
6.2 c) The Women Drew a Crowd	360
6.2 d) ‘Aye Ye May Well Look at Me’	364
6.3 Conclusions and Further Research	367
Chapter 7	370
Conclusion: Prisons, Pubs and Pawnshops	
Bibliography	385
Appendices	452

Tables, Figures and Images

Tables

2.1	Percentage of Court Fines Paid for the Offence of Drunk and Incapable	66
2.2	Females Accused of Drunkenness and ‘Assault, Breach of the Peace [and] Disorderly Conduct’ 1865–1925	67
2.3	Index of Annual Per Capita Alcohol Consumption in Britain 1885 – 1934	114
3.1	Occupations of Dundee’s Female Offenders 1869–1875	120
3.2	Age of Female Offenders Accused of Loitering, Disorderly Conduct and Drunkenness in 1874 in Scotland	123
3.3	Number of Previous Convictions of Women Apprehended for Soliciting 1899, 1900, 1902	171
3.4	Women Cited or Apprehended and before Dundee’s Police Court for Shebeening 1875–1877	175
4.1	The Percentage of Female Re-offenders, in All Cases, 1876–1893	182
4.2	Female Offenders With More Than Twenty Convictions in 1883	185
4.3	Male and Female Recidivists Before the Police Court From 2 to 18 Times in 1883	192
4.4	Male and Female Crime in 1881 as a Percentage of the 1881 Population	194
4.4	The Number of Men and Women With Over 60 Convictions 1883–1925	204
5.1	Apprehensions and Convictions for Prostitution in Dundee	286
5.2	The Number of Persons sent to Scotland’s State Inebriate Reformatory 1908–1923	296

Figures

2.1	Apprehensions, Citations for Female Theft (Simple) 1883–1902	92
3.1	The Age of Women Convicted of Drunkenness and Drunk and Incapable in Dundee	122

3.2	Estimated Proportion of Prostitutes in Dundee's Female Population, 1869–1877	123
3.3	Proportion of Prostitute-Thieves and Common Thieves in a Sample of Dundee's High Court Papers, 1865–1908	134
4.1	Reported Incidents of Assault and Breach of the Peace 1880–1895	190
4.2	Reported Incidents of Drunkenness 1880–1895	190
4.3	Habitual Offenders 1876 to 1904 Total Convictions, Male and Female	195

Images

2.1	The 'Spinner's Ambition'	80
4.1	A Drunken Mother	223
4.2	Drunken Women in the Overgate	226
4.3	Dundee's Female Inebriates in 1904–1905	233
5.1	The Arrest of a Male Offender	258
6.1	'A Lecture on Physical Conformation (Paris)'	326

Abbreviations

<i>BMJ</i>	<i>British Medical Journal</i>
<i>C</i>	<i>Dundee Courier</i>
<i>DA</i>	<i>Dundee Advertiser</i>
<i>DCA</i>	Dundee City Archives
<i>DIR</i>	Dundee Inebriate Register: The Licensing (Scotland) Act 1903 (information to licensed persons and secretaries of clubs descriptions and photographs ... 1905), DLHC: D32273, D5068G
<i>DLHC</i>	Dundee Local History Centre
<i>DSU</i>	<i>Report of Investigation in the Social Conditions of Dundee</i> , Dundee Social Union, Social Enquiry Committee (1905)
<i>DYB</i>	<i>The Dundee Year Book, Facts and Figures</i> (John Leng, Dundee)
<i>Green's</i>	<i>Green's Encyclopaedia of the Law of Scotland</i> (William Greens: Edinburgh)
<i>JC26</i>	Dundee's High Court of Justiciary records at NAS
<i>JSS</i>	<i>Report on the Judicial Statistics of Scotland ... Statistics Relating to</i> <i>Police Apprehensions – Criminal Proceedings – Prisons –</i> <i>Reformatory and Industrial Schools – Criminal Lunatics Etc ...</i> HMSO (Edinburgh) [1906–1924]
<i>Lamb</i>	Lamb Collection at DLCH
<i>Lamb 237(5)</i>	John Dunn, Officer of the Dundee Police Force, Dundee Burgh Police – <i>Essay on 'What Alterations and Improvements on the</i> <i>Present Method of Dealing with Crime and Criminals in Scotland</i> <i>Would be Most Likely to Tend to the Prevention of Crime and the</i> <i>Detection and Reclamations of Criminals?'</i>
<i>Lennox</i>	David Lennox, <i>Working Class Life in Dundee for Twenty-Five Years:</i> <i>1878–1903</i> (approx 1905)
<i>NAS</i>	National Archives of Scotland
<i>Piper</i>	<i>Piper O'Dundee</i>
<i>PJ</i>	<i>People's Journal</i>
<i>PiSR</i>	<i>Annual Report of the Prison Commissioners for Scotland being (in</i> <i>Continuation of the Reports of the Late General Board of Prisons</i> <i>and the Managers appointed under the (Scotland) Administration Act</i> <i>1860) the [twenty-sixth – fifty-sixth] annual report on Prisons in</i> <i>Scotland ...</i> HMSO (Edinburgh) [1865–1895]
<i>PoR</i>	<i>Burgh of Dundee, Returns of Crimes and Offences Reported to the</i> <i>Police and of Cases Brought Before the Dundee Police Court with</i> <i>Other Details and Statistics for the year ending ...</i> (Dundee) [1854– 1939]
<i>PR</i>	<i>Annual Report for Prison Commissioners for Scotland ... HMSO</i> <i>(Glasgow and Edinburgh)</i> [1905, 1915, 1925]
<i>RHO</i>	<i>Report from the Departmental Committee on Habitual Offenders,</i> <i>Vagrants, Beggars, Inebriates, and Juvenile Delinquents</i> , HMSO (Edinburgh, 1895)
<i>SC45</i>	Sheriff Court Case Papers at NAS
<i>S'man</i>	<i>Scotsman</i>
<i>UDA</i>	University of Dundee Archive
<i>Wizard</i>	<i>Wizard O'The North</i>
<i>WN</i>	<i>Weekly News</i>

Chapter 1

Introduction: Women, Crime and Dundee 1865–1925

‘[Jute t]he great world carrier, being used to cover, hold and transport practically everything.’¹

1.0 Setting the Scene

This interdisciplinary study of female petty crime in Dundee takes up the story of Dundee in 1865, when the major industrial port town on the east coast of Scotland was enjoying a short spell as the unchallenged jute manufacturing capital of the world. Officially recognised as a city in 1889, Dundee was unique for her dependence on jute: textile manufacture employed nearly nine-tenths of the workforce.² And Dundee was unusual for its reliance on cheap female labour. Of course it was not only in ‘Juteopolis’ that women worked hard: herring girls, pit brow lassies, farming women and Swansea stevedores were all engaged in physically demanding tasks.³ The reason why *The Weekly News* reported, in 1888, that there was not ‘another town in the kingdom where the labour of women played so important a part’ was because two-thirds of Dundee’s jute workforce were women.⁴ Well into the twentieth

¹ Dundee Chamber of Commerce, *Centenary Souvenir 1836–1936* (Dundee, 1936), p. 76.

² W J Knox, *Industrial Nation: Work Culture and Society in Scotland: 1800–Present* (Edinburgh, 1999), p. 87. No other major British industry, not even the extensive Lancashire cotton industry was concentrated in such a small area: Norman Watson, *Dundee: A Short History* (Edinburgh, 2006), pp. 118–119.

³ Deirdre Beddoe, *Out of the Shadows: A History of Women in Twentieth-Century Wales* (Cardiff, 2000), p. 35, Angela V John, *By the Sweat of Their Brow: Women Workers at Victorian Coal Mines* (London, 1984), pp. 14, 180.

⁴ *WN*, 22 September 1888, similar statements are found *PJ*, 21 May 1881, *WN*, 4 January 1902. There were other female occupations in Dundee: in jam making, and fish selling but they did not impact greatly on social set up and only 8% were employed as domestics compared to 22% and 26% in Glasgow and Aberdeen respectively: Susan Kingsley Kent, *Gender and Power in Britain 1640–1990* (London, 1999), p. 183.

century, in the absence of a marriage bar in industry, more married women worked in Dundee than in any other city.⁵

The normal social situation in the so-called ‘woman’s town’ was that brides were back in the mill before their honeymoon was over.⁶ According to *The People’s Journal* it was ‘no disgrace to her or any other person for that’. The paper observed ‘it would be reckoned an extraordinary as well as improvident course for her ... to curtail’ her work on marriage.⁷ Wives were forced by the underemployment of their men folk to be the family breadwinner.⁸ As *The Advertiser* noted, in 1903, ‘it often happens that the father ... does not work a month in the year, and maintains his position as head of household only by brute force’ (my italics).⁹

Right up to the 1930s life for a Dundonian woman was, as one recalled, typically ‘a living hell of hard work and poverty’.¹⁰ Jute was a low-profit industry and women received poor remuneration for their long hours. Moreover their wages were insecure,

⁵ Watson, *Dundee*, pp. 118-119.

⁶ Hilary Young, ‘Being a Man: Everyday Masculinities’, in Christopher A Whatley and Elizabeth Foyster, eds, *A History of Everyday Life in Scotland in the Twentieth Century* (Edinburgh, 2010), p. 145. Incidentally Shetland was known as a ‘woman’s world’ because the men were away at sea for the bulk of the year.

⁷ *PJ*, 11 January 1881.

⁸ For a discussion of women as breadwinners see Young, ‘Being a Man: Everyday Masculinities’, pp. 131-153. Male underemployment caused women to work elsewhere: Anne Cranny-Francis, and others, *Gender Studies Terms and Debates* (Hampshire, 2003), p. 250 (Lancashire), James D Young, *Women and Popular Struggles: A History of British Working-Class Women 1560–1984* (Edinburgh, 1985), p. 124 (Norwich), Boritch and Hagan, ‘A Century of Crime in Toronto: Gender, Class and Patterns of Social Control, 1859 to 1955’, p. 582. And in the first-half of the nineteenth century female-headed households were common in Glasgow due to the shortage of men. See also Anna Clark, *The Struggle for the Breeches Gender and the Making of the British Working Class* (London, 1997) p. 40.

⁹ *DA*, 13 November 1903. Similarly a manager told the Royal Commission on Labour that many were forced into the mill due to the ‘idle and worthless husbands, who preferred to live on the earnings of their wives’, *DYB*, 1893 p.173.

¹⁰ Mary Brooksbank, *No Sae Lang Syne: A Tale of this City* (Dundee, 1973), p. 29.

since jute manufacture was characterized by sharp cycles of activity and depression due to the cost of raw materials, which in turn depended on both the jute harvest in Bengal and the condition of international trade.¹¹ In addition, firms dismissed women who were off work a day or more due to illness and workers were fined for lateness and for leaving needles in the cloth. Our study of Dundee concludes in 1925, appropriately enough during a depression, when the permanent decline of jute manufacture was publicly acknowledged. We end here because the women's hegemony of the city's labourforce was at an end.¹²

As early as 1872 *The Advertiser* questioned whether 'King jute' could be relied upon to ensure the city's economic well being.¹³ The capriciousness of the jute trade was not, however, the original author of Dundonian poverty. As was the case throughout northern Britain industrialisation fuelled mass migration from the surrounding countryside, the Highlands and Ireland, causing a housing crisis for which the city's authorities were ill-prepared. The population of Dundee rose from 91,664 in 1861 to 142,154 in 1881, producing overcrowding and slum conditions redolent of Mary Barton's Manchester.¹⁴ The period covered by this study saw social reform but poverty remained the norm for the city's working classes. This was highlighted in

¹¹ The working day in the last decade of the century was 6am-6pm (6am-1pm on Saturday) with 2 meal breaks: Trevor Griffiths, 'Work, Leisure and Time in the Nineteenth Century', in Whatley and Foyster, *A History of Everyday Life in Scotland*, pp. 170-196, Jim Tomlinson, 'The Deglobalisation of Dundee, c 1900-2000', *Journal of Scottish Historical Studies*, 29 (2009), p. 127.

¹² *PJ*, 25 June 1925. After 1923 the jute industry employed fewer and more productive workers. The introduction of the night shift required the employment of more men than was previously necessary: William M Walker, *Juteopolis: Dundee and its Textile Workers 1885-1923* (Edinburgh, 1979) p. 529.

¹³ *DA*, 6 June 1872, reproduced in J M Jackson, ed, *Third Statistical Account of Scotland the City of Dundee* (Arbroath, 1979), p. 79.

¹⁴ 1871: 120,724, 1891: 155,985, 1901: 160,871, 1911: 165,002, 1921: 168,217 from *PoR*, 1928, Table 18.

1904 with the publication of the Dundee Social Union Report, from which D'Arcy Thompson calculated that at least one third of all working families in the Edwardian city lived in primary poverty.¹⁵ A decade later the Royal Commission on Housing vividly recorded the inadequate conditions and their frequent effects:

when one considers what it must be to live in a small, ill-ventilated, evil-smelling room, with the walls, and ceiling running with moisture or crumbling to decay, one ceases to marvel almost at the hopelessness, indifference and indolence of many a house mother.¹⁶

In the oppressive surroundings many Dundonian women, caring nothing beyond the moment, turned to drink for an escape. The consequential problems of female drunkenness and disorder led to mill girls being dubbed a 'moral blot on the city' and versions of the sobriquet have been perpetuated by historians ever since.¹⁷ Dundee clearly provides a worthy case study for exploring the interactions of women with the criminal justice system. This thesis seeks to define and contextualize the criminality of the city's women in the six decades between 1865 and 1925 and in doing so it will evaluate the accuracy of the mill girl stereotype.

¹⁵ D'Arcy Thompson, 'Fifty Years Ago and Now: A Presidential Address on the Occasion of the Fiftieth Annual General Meeting of the Grey Lodge Settlement Association' (Formerly Dundee Social Union and Grey Lodge Settlement) (Dundee, 1938), p. 10.

¹⁶ Cited Simon J Dick, 'Towards a Characterisation of Female Labour in Dundee Jute Industry in the Late Nineteenth and Early Twentieth Centuries', (unpublished MA dissertation, University of Dundee, 1984), p. 38.

¹⁷ Emma M Wainwright, 'Constructing Gendered Workplace 'Types': The Weaver-Millworker Distinction in Dundee's Jute Industry, c 1880–1910', *Gender, Place and Culture*, 14 (2007), p. 479. Walker writes 'with the work of men ... [they] behaved like men': *Juteopolis*, pp. 46, 393, Joan McAlpine similarly recently generalised that the 'jute lassies of Dundee' were 'terrifying in their day', *Sunday Times* 30 August 2009.

1.1 'Scotland, a Country with No Criminal Record'

Since the late 1970s British criminal justice history has developed apace and is now an established and respected field of social history.¹⁸ Although women's criminality remains a neglected field, progress has been made in understanding the nature of female crime. This has recently been demonstrated by Shani D'Cruze and Louise Jackson's *Women, Crime and Justice and England Since 1660* (2009), David Taylor's *Hooligans, Harlots and Hangmen: Crime and Punishment in Victorian Britain* (2010) and Heather Shore's contribution to *Histories of Crime, Britain 1600–2000*.¹⁹ Shore, a member of the Feminist Crime Research Network, has, along with Peter King, Deirdre Palk and Gregory Durston focused specifically on women's crime in eighteenth-century England.²⁰ All of these accounts resonate strongly with the findings of historians like D'Cruze, Lucia Zedner and Barry Godfrey who explain female criminality in England a century later.²¹ The association they make between

¹⁸ For an overview see: Peter King, 'Locating Histories of Crime: A Bibliographical Study', *British Journal of Criminology*, 39 (1999) 161-174, J A Sharpe, 'The History of Crime in England c 1300–1914: An Overview of Recent Publications,' *British Journal of Criminology*, 28 (1988), 124-136, Louis A Knafla, ed, *Crime, Police and the Courts in British History* (London, 1990), pp. vii-ix, Barry Godfrey and Paul Lawrence, *Crime and Justice 1750–1950* (Devon, 2005).

¹⁹ Heather Shore, 'Criminality, Deviance and the Underworld Since 1750', in David Nash and Anne-Marie Kilday, eds, *Histories of Crime, Britain 1600–2000* (Hampshire, 2010), pp. 120-140.

²⁰ Shore, 'The Reckoning': Disorderly Women, Informing Constables and the Westminster Justices, 1727-33', *Social History*, 34 (2009), 409-427. For Feminist Crime Research Network see www.ssb.plymouth.ac.uk/JP/Solon/solondb.htm [accessed 12 December 2010], Peter King, 'Female Offenders, Work and Life-Cycle Change in Late-Eighteenth-Century London', *Continuity and Change*, 11 (1996), 61-90. Deirdre Palk, *Gender, Crime and Judicial Discretion 1780–1830* (Suffolk, 2006), Gregory Durston, *Victims and Viragos: Metropolitan Women, Crime and the Eighteenth-Century Criminal Justice System* (Suffolk, 2007). For the history of crime in the early-modern period see J A Sharpe, *Crime in Early Modern England 1550–1750* (London, 1998), and 'History of Crime in Late Medieval and Early Modern England: A Review of the Field', *Social History*, 7 (1982), 187-203, Malcolm Gaskill, *Crime and Mentalities in Early Modern England* (Cambridge, 2003).

²¹ D'Cruze, *Crimes of Outrage: Sex, Violence and Victorian Working Women* (London, 1998), D'Cruze, S and B Godfrey and D J Cox, 'The Most Troublesome

women and low-value thefts and drink-related disorder is similarly echoed in Michael Boyle's thesis 'Women and Crime in Belfast, 1900–1913', Susan Grace's research on York and Hull and Michael Macilwee's current book on Liverpool.²² But obviously much more local research is needed if we are to understand the process of criminal justice and if social historians are to benefit from the detailed records on the underclass that are maintained in crime archives.

Some of the most important findings in women's crime history have emerged as a result of the infatigable scholarship on prostitution. A number of studies, such as Frances Finnegan's investigation of Victorian York and Julia Laite's thesis on London 1885–1930, examine the daily lives and circumstances of individual prostitutes and streetwalkers as a class.²³ Laite guides us on the difficult task of guesstimating the number of prostitutes working the streets. She argues that historians, like contemporaries, have made calculations 'in the absence of the number of men buying [sex]', and suggests that it is reasonable to assume that there were at

Women in Crewe': Investigating Gender, Sentencing and the English Lower Courts, 1880–1920', in E Avdela, S D Cruze and J Rowbotham, eds, *Problems of Crime and Violence in Europe 1870–2000: Essays in Criminal Justice* (London, 2010), I am grateful to David Cox for letting me have a copy of the chapter before publication. Lucia Zedner, *Women, Crime and Custody in Victorian England* (Oxford, 1991).

²² Michael D Boyle, 'Women and Crime in Belfast, 1900–1913', (unpublished PhD thesis, Queen's University Belfast, 1997), Susan E Grace, 'Female Criminality in York and Hull, 1830–1870', (unpublished PhD thesis, University of York, 1998) Michael Macilwee, *The Liverpool Underworld: Crime in the City 1750–1900* (Liverpool, 2011). Also Deborah James, 'Drunk and Riotous in Pontypridd': Women, the Police Courts and the Press in South Wales Coalfield Society, 1899–1914', *Llafur*, 8 (2002), 5–12, Geraldine Curtin, 'Female Prisoners in Galway Gaol in the Late Nineteenth Century', *Journal of the Galway Archaeological and Historical Society*, 54 (2002), Joseph O'Neill, *Crime City: Manchester's Victorian Underworld* (Berkshire, 2008).

²³ Frances Finnegan, *Poverty and Prostitution: A Study of Victorian Prostitutes in York* (Cambridge, 1979).

least twice as many clients as there were prostitutes.²⁴ Proposals to criminalize men for seeking sexual services never resulted in legislative action in Britain. Only women were criminalized for soliciting – but this is just part of the story of prostitutes and the law.

Jennifer Newby's chapter on criminal women in *Women's Lives: Researching Women's Social History 1800–1939* (2011) draws upon the scholarship of Walkowitz, Clayton, Zedner, Luddy and Lee, amongst others, and introduces evidence that prostitutes were frequently convicted of theft and of drunk and disorderly behaviour.²⁵ Both Morrison and Sturma, however, observe that researchers have simply reiterated the evidence that female offenders were 'drunken and abandoned prostitutes', and warn scholars against repeating the stereotypes that litter the archives.²⁶ But this is to take a dim view of the huge volume of local police and court data that shows why prostitution rightly carried the perception of proto-criminality in the period.²⁷ And it is to ignore the fact that it is standard for historians to acknowledge that narratives

²⁴ Julia Ann Laite, 'Prostitution in London, 1885–1930', (unpublished PhD thesis, University of Cambridge, 2008), pp. 43, 61. I am grateful to Dr Laite for letting me have a copy of the thesis before it was available through the British Library.

²⁵ Judith R Walkowitz, *Prostitution and Victorian Society: Women, Class and the State* (Cambridge, 1980), Mary Clayton, 'The Life and Crimes of Charlotte Walker, Prostitute and Pickpocket', *The London Journal*, 33 (2008), 3-19, Maria Luddy, *Prostitution and Irish Society 1800–1940* (Cambridge, 2007), "Abandoned Women and Bad Characters": Prostitution in Nineteenth-Century Ireland', *Women's History Review*, 6 (1997), 485-504, Jill Harsin, *Prostitution in Nineteenth-Century Paris* (Princeton, 1985), Catherine T Lee, 'Regulating Prostitution in Nineteenth-Century Kent: Beyond the Contagious Diseases Acts', (unpublished PhD thesis, Open University, 2008), I am grateful to Dr Lee for letting me have a copy of the thesis before it was available through the British Library. Jill Harsin, *Prostitution in Nineteenth-Century Paris* (Princeton, 1985).

²⁶ Michael Sturma, 'Eye of the Beholder: The Stereotype of Women Convicts, 1788–1852', *Labour History*, 34 (1978), p. 5, Bronwyn Louise Morrison, 'Ordering Disorderly Women: Female Drunkenness in England c 1870–1890', (unpublished PhD thesis, Keele University, 2005), p. 15.

²⁷ William Cornish, J Stuart Anderson, Keith Smith, et al, *The Oxford History of the Laws of England, 1820–1914, Volume XIII* (Oxford 2010), pp. 355-6.

cannot be taken at face value because, in Howell's words, the problem of prostitution was 'constructed ... in discourse and political practice.'²⁸

Macilwee's *The Liverpool Underworld: Crime in the City 1750–1900* (2011) is the latest study to underline the inevitable link between drink and prostitution. Pubs, he confirms, were a meeting point for prostitutes, pimps and clients, and it was here the women retired after a night of debauchery.²⁹ Finnegan's *Poverty and Prostitution: A Study of Victorian Prostitutes in York* (1979) spells out at greater length the centrality of drink to the sex trade. It was commonplace, she elaborates, for prostitutes to ply men with drink so that they were easy to rob. Finnegan also addresses the methodological problems of trying to determine whether a prostitute was an alcoholic. The fact that a streetwalker had several convictions for drunkenness is insufficient proof, she argues, and she maintains that we should only assume the presence of addiction when a prostitute had around thirty charges.³⁰ There is ample evidence to show that women like this are presented in the historical documents as leading truly wretched lives.

Seafaring metaphors were popular in Dundee's press: low-class mill workers were the 'floatsum and jetsum' of the slums and prostitutes were represented as the shipwrecks.³¹ Nina Attwood argues that historians have perpetuated the tropes of disease and death popular in much contemporary discourse on prostitution, and consequently of failing to acknowledge the 'multi-faceted and many layered'

²⁸ Philip Howell, *Geographies of Regulation: Policing Prostitution in Nineteenth-Century Britain and the Empire* (Cambridge, 2009), pp. 77-78, 140, Luddy, *Prostitution and Irish Society*, p. 8.

²⁹ Macilwee, *The Liverpool Underworld*, p. 113.

³⁰ Finnegan, *Poverty and Prostitution*, pp. 147, 154, 116, 124-6, 129.

³¹ *C*, 21 July 1878, 20 April 1888.

representations of the sex trade.³² Is this fair? Certainly Finnegan has been accused of over-simplifying the association between poverty and prostitution, but generally those who link the prostitutes with the destitute underclass take stock of the complexities within the cohort.³³ Lee, for example, points out that ‘[t]he image of the prostitute as an agent of destruction and conduit of contagion was juxtaposed with that of the deserving recipient of compassionate charity’. Moreover, contrary to the stereotype of the degraded streetwalker, she finds that the willingness of the entrepreneurial and independent women amongst them to pursue prosecutions through the magistrates’ court—knowing their occupation would be mentioned in the press—shows they were undaunted at the prospect of being labelled a prostitute and by implication they were less jaded than we might suppose.³⁴

Stefan Petrow is another historian who avoids making simple and misleading assumptions about prostitutes, but *Policing Morals: The Metropolitan Police and The Home Office 1870–1914* (1994) is far more than a study of London’s vice trade. Petrow provides a snapshot of the recidivist as a habitual drunk which is particularly valuable since repeat offenders have not received the sort of attention given to prostitutes, despite the overlap between them. Apart from Geraldine Curtin’s work on female prisoners in Galway, and Godfrey et al’s study of northern England few British scholars have pursued recidivists through the archives. On the basis of their detailed analysis of the crime statistics Godfrey, Cox and Farrall conclude that in Crewe, between 1880 and 1940, there were two main types of habitual offenders. The

³² Nina Attwood, *The Prostitute’s Body: Rewriting Prostitution* (London, 2011), pp. 2, 12, 17, 145, 152.

³³ Taylor, *Hooligans, Harlots and Hangmen*, p. 103, Luddy, *Prostitution and Irish Society*, pp. 58, 4-5.

³⁴ Lee, ‘Regulating Prostitution in Nineteenth-Century Kent’, pp. 7, 12, 105.

first type of recidivists they identify were intensely involved in crime for a short period, but later subsided. In contrast, the second group were repeat offenders on account of their heavy drinking – a condition that continued throughout their lives.³⁵ Their classification is not easy to apply to Dundee. The city's Margaret Gow, who is discussed repeatedly in this thesis, is typical of the second type: she died a drunkard, the authorities having long given up trying to cure her of her drink problem. The archives, however, inadequately capture the criminal longevity of less notorious recidivists. We cannot say whether they disappear from the records in the late nineteenth century because they had moved away, died, or reformed or because they were no longer considered newsworthy: the latter is a real possibility for, as we shall see, by 1900 journalists paid little attention to local crime.

Neither Godfrey et al, Curtin, nor Petrow addresses the reasons behind the nationally-recognised phenomenon of the disproportionately large number of women recidivists in the judicial statistics that is a central concern in this study. Still, the related topic of the female dominance of the inebriate reformatory records in the first decades of the new century has received considerable attention from researchers of women's social history. Dobash and McLaughlin observe that the ratio of men to women inmates was around 1:32. They argue that the inebriate institutions support Foucault's theory of social control and, like Zedner, Bronwyn Morrison and Deborah James, find evidence

³⁵ Curtin, 'Female Prisoners in Galway', Barry Godfrey, David Cox, and Steve Farrall, 'Persistent Offenders in the North West of England, 1880–1940: Some Critical Research Questions', *Crimes and Misdemeanours*, 1 (2007), 69-89, Howell's research of prostitutes in Victorian Cambridge also points to the fact that only a tiny percentage (less than 3%) were active on the streets ten years after their first arrest: *Geographies of Regulation*, p. 140.

of gender discrimination.³⁶ It is by no means clear for Hunt, Mellor and Turner why there was a disproportion of women inebriates and they acknowledge that the reformatory records cannot themselves account for the gendered trend. Nevertheless they suspect that contemporaries may have considered women generally more suited to reformatory confinement than men.³⁷ For Dobash and Mclaughlin this is to ignore the fact that the female inmates were considered, by a society pre-occupied with women's sexuality, as beneath contempt'.³⁸ Similarly, for Morrison it is to overlook 'the feminized concept of habitual drunkenness' and the criminological discourses that 'amplified the threat posed by the female drunkard.'

Taking a Foucauldian and feminist stance in her PhD thesis, Morrison finds that the predominance of women within the inebriate institutions 'can ... only be explained by the stark double standard'. She cites the case of the notorious recidivist Jane Cakebread, whom we shall meet in Chapter 5, as proof of the application of cultural constructions against female drunkards in the period. She suggests that Cakebread's 'continued resistance and refusal to be silenced' resulted in her 'intensive' control in a lunatic asylum. Yet she does not recognise that prolonged drinking leads to dementia, nor does she address the challenge posed to her conclusion by the evidence that Cakebread went to considerable lengths to get herself arrested and, moreover, was

³⁶ Russell P Dobash and Pat Mclaughlin, 'The Punishment of Women in Nineteenth-Century Scotland: Prisons and Inebriate Institutions', in Esther Breitenback and Eleanor Gordon, *Out of Bounds: Women in Scottish Society 1800–1945* (Edinburgh, 1992), pp. 81, 83, 88. Michel Foucault, *Discipline and Punish: The Birth of the Prison* (London 1977, reprinted 1991), Zedner, *Women, Crime and Custody*, p. 19, Morrison, 'Ordering Disorderly Women', pp. 155, 129, James, 'Drunk and Riotous in Pontypridd', pp. 5-12.

³⁷ G Hunt, J Mellor and J Turner, 'Wretched, Hatless and Miserably Clad: Women and the Inebriate Reformatories from 1900–1913', *The British Journal of Sociology*, 40 (1989), p. 267.

³⁸ Dobash and Mclaughlin, 'The Punishment of Women', pp. 83-84.

very often sentenced leniently by the magistrates. Understanding why magistrates were lenient to women has been a neglected area of research. This study will show that the treatment of habitual drunkards was more complex than either Morrison or Dobash and McLaughlin allow.³⁹ It will nonetheless endorse the latter's findings about the nature of female crime in Scotland.

Clive Emsley, whose research underpins most recent British crime and policing history, reflects that British scholars have not been good at looking at ordinary offenders nor of following their criminal careers.⁴⁰ When it comes to investigating Scottish women they have been even worse. Only a handful of researchers have made forays into Scotland's crime archives. Other than the Dobash and McLaughlin essay, to date the most utilised exploration is probably Linda Mahood's *The Magdalenes: Prostitution in the Nineteenth Century* (1990) and this is only indirectly crime history. The slim inventory that more purposefully engages with Scottish women's involvement in the criminal process includes Eleanor Gordon and Gwyneth Nair's, *Murder and Morality in Victorian Britain: The Story of Madeline Smith* (2009), Anne Marie Kilday's investigation of female criminality in South-West Scotland 1750–1815, and the edited collection *Twisted Sisters: Women's Crime and Deviance in Scotland Since 1400* (2002).⁴¹ There are equally few research projects that shed light

³⁹ Morrison, 'Ordering Disorderly Women', pp. 129, 225-6, 235, 237-8, 253.

⁴⁰ Speaking at the Crime Symposium 2008, 4/5th September Leeds Metropolitan University, see also Clive Emsley, *Crime and Society in England, 1750–1900* (Harlow, 2005).

⁴¹ On Scottish prostitutes there is also Barbara Littlewood and Linda Mahood, 'Prostitutes, Magdalenes and Wayward Girls: Dangerous Sexualities of Working Class Women in Victorian Scotland', *Gender and History*, 3 (1991). On Scottish female offenders: A M Kilday, 'Women and Crime in South-West Scotland: A Study of the Justiciary Court Records 1750–1815', (unpublished PhD thesis, University of Strathclyde, 1998), also Brian P Levack, *Witch-Hunting in Scotland: Law, Politics, and Religion* (New York, 2007).

on women's criminality whilst pursuing a tangential theme. The ones that stand out are Lindsay Goldsmith's thesis on the development of the Glasgow Police 1800–1939, Carolyn Conley's *Certain Other Countries: Homicide, Gender and National Identity in Late Nineteenth-Century England, Ireland, Scotland, and Wales* (2007), and the essays on law and order in the recently published series of social histories of Scotland.⁴²

Scholars of women's history argue that women are marginalised within the male-dominated nation.⁴³ But it is not only Scottish women who have been neglected.

There is a lack of knowledge about male crime and about the officers who patrolled Scotland's streets.⁴⁴ Likewise, modern criminological literature is almost entirely

⁴² Alistair Lindsay Goldsmith, 'The Development of the City of Glasgow Police c1800–1939', (unpublished PhD thesis, University of Strathclyde, 2002), pp. 328, 331, 336, 340–364, 370–371, Christopher A Whatley, 'Order and Disorder', in Whatley and Foyster, eds, *A History of Everyday Life in Scotland, 1600–1800*, pp. 191–217, and W W J Knox and A McKinlay, 'Crime, Protest and Policing in Nineteenth-Century Scotland', in *A History of Everyday Life in Scotland, 1800 to 1900*, pp. 60–89.

⁴³ Jane McDermid, 'Missing Persons? Women in Modern Scottish History', in Terry Brotherstone and others, eds, *Gendering Scottish History an International Approach* (Glasgow, 1999), p. 37.

⁴⁴ Exceptions are Goldsmith, 'The Development of the City of Glasgow', and the work of David G Barrie: " 'Epoch-Making' Beginnings to Lingering Death: The Struggle for Control of the Glasgow Police Commission, 1833–46", *The Scottish Historical Review*, 222 (2007), 253–277, *Police in the Age of Improvement: Police Development and the Civic Tradition in Scotland, 1777–1865*, (Abingdon, 2008), 'A Typology of British Police: Locating the Scottish Municipal Police Model in its British Context, 1800–1835', *British Journal of Criminology*, 50 (2010), 259–277. 'Police in Civil Society: Police, Enlightenment and Civic Virtue in Urban Scotland, c 1780–1833', *Urban History*, 37 (2010), 45–65. Taylor looks briefly at Scotland's police forces in *Hooligans, Harlots and Hangmen*, and for Glasgow Force see T M Devine, 'Urbanisation and the Civic Response: Glasgow 1800–1830', in A J Cummings and T M Devine, eds, *Industry, Business and Society in Scotland Since 1700: Essays Presented to John Butt* (Edinburgh, 1994) and Steve Ward, 'The Birth of Policing', *Who Do You Think You Are*, 60 (2012), p. 30.

Anglocentric. In Crowther's words, Scotland seems to be a country 'with no criminal record'.⁴⁵

Anne Crowther and Ian Donnachie have been numerically the most productive scholars of nineteenth-century Scottish crime history. Crowther's examination of the value of the precognition papers⁴⁶ and the English influence on Scottish law is drawn upon in the analysis of Dundee's High Court in Chapter 3. And since Donnachie's work, on the first half of the nineteenth century, resonates with portraits of Britain at the end of Victoria's reign it is similarly valuable.⁴⁷ These were projects completed in the 1980s and 90s. In the last decade Conley, Symonds and Davies have displayed their interest in the field with the analysis of homicide and Glasgow gangs respectively, and Gordon and Nair, in recounting the murder mystery surrounding Madeline Smith, have explored the uniquely Scottish verdict of Not Proven.⁴⁸ All in

⁴⁵ Rod Mogan, 'Review of 'Criminal Justice in Scotland'', by Croall, H and others eds', *British Journal of Criminology*, 510 (2011), p. 1065. Anne M Crowther 'Scotland, a Country with No Criminal Record', *Scottish Social and Economic History*, 12 (1992), p. 82 cited by Goldsmith, 'The Development of the City of Glasgow Police', p. 6.

⁴⁶ Precognitions are details of the crime and statements of any witnesses and law officers.

⁴⁷ Anne M Crowther, 'The Criminal Precognitions and their Value for the Historian', *Scottish Archives*, 1 (1995), 75-92, and 'Crime, Prosecution and Mercy: English Influence and Scottish Practice in the Early Nineteenth Century', in S J Connoll, ed, *Kingdoms United? Great Britain and Ireland Since 1500. Integration and Diversity* (Dublin, 1999), pp. 224-238. For Ian Donnachie see: "The Darker Side": A Speculative Survey of Scottish Crime During the First Half of the Nineteenth Century', *Scottish Economic and Social History*, 15 (1995), 5-24. Other papers include: "Utterly Irreclaimable": Scottish Convict Women and Australia 1787-1852', *Journal of Regional and Local Studies*, 8 (1988), 1-16, 'Profiling Criminal Offences: The Evidence of the Lord Advocate's Papers During the First Half of the Nineteenth Century in Scotland', *Scottish Archives*, 1 (1995), 85-92, 'The Convicts of 1830: Scottish Criminals Transported to New South Wales', *The Scottish Historical Review*, 179 (1986), 34-47, 'Scottish Criminals and Transportation to Australia, 1786-1852', *Scottish Economic and Social History*, 4 (1984), 21-38.

⁴⁸ C A Conley 'Atonement and Domestic Homicide in Late Victorian Scotland', in R McMahon, ed, *Crime, Law and Popular Culture in Europe 1500-1900* (Devon,

all, though, The Boydell Press has been justified in referring to Scottish criminal justice history as ‘almost nonexistent’.⁴⁹

But it is high time the publishers updated the statement on their web page to reflect the increasing activity of Scottish crime historians. In 2009 the ‘Crime and Policing in Scottish Society’ conference generated discussion on many aspects of crime and policing from the sixteenth to the twentieth century. Since then several scholars have extended our knowledge of Scotland’s criminal record. For example, Peter King’s investigation of the geography of Scottish homicide, in the first half of the nineteenth century and of defendants far less notorious than Madeline Smith, has unearthed evidence of massive differences between Scottish and English homicide rates unseating the established view that rates were negatively correlated with urbanization and industrialization.⁵⁰ Ann Marie Hughes furnishes material on the all-too-widespread incidence of wife-beating between 1800–1949, whilst Louise Jackson and Angela Bartie break new ground on several fronts with their research of youth crime in the post-war Scotland.⁵¹

We can expect a range of fundamental questions to be raised by scholars in the next

2008), pp. 219-238, Deborah A Symonds, *Weep Not For Me: Women, Ballads and Infanticide in Early Modern Scotland* (Pennsylvania, 1997), Andrew Davies, ‘Glasgow’s ‘Reign of Terror: Street Gangs, Racketeering and Intimidation in the 1920s and 1930s’, *Contemporary British History*, 21 (2007), 405-427, Gordon and Nair, *Murder and Morality*, pp. 155, 189. The book does more than this though; the authors discuss the issues of class, gender, national identity and the culture raised by the trial.

⁴⁹ www.boydell.co.uk [accessed 9 January 2009].

⁵⁰ Peter King, ‘Urbanization, Rising Homicide Rates and the Geography of Lethal Violence in Scotland 1800–1860’ *History*, (2011), 231-259.

⁵¹ Annmarie Hughes, ‘The ‘Non-Criminal’ Class: Wife-beating in Scotland c 1800–1949’, in *Crime, History and Societies*, 14 (2010), 31-54, Louise Jackson and Angela Bartie, ‘Youth Crime and Preventive Policy in Post-War Scotland c 1945–1971’, *Twentieth-Century British History*, 22 (2011), 79-102 and ‘Children of the City: Juvenile Justice, Property and Place in England and Scotland 1945–1960’, *Economic History Review*, 64 (2011), 88-113.

few years. We eagerly await new work on Victorian homicide from Bill Knox, Tim Siddons and Alison Brown, and the findings of the collaborative project between Louise Jackson (History) and Richard Sparks (Law) at the University of Edinburgh on the police and community in twentieth-century Scotland.⁵² A major series of radio documentaries where historians, criminologists, writers, legal and medical experts explore the history of murder in Scottish society is also in preparation. And it is likely that dialogue between historians, contemporary researchers and police practitioners will increase given that the aim of the Scottish Institute for Policing Research, at the University of Dundee, is to look at crime and policing from a historical and contemporary perspective.⁵³

In response to the current state of Scottish crime history and the gaps in the English research this study draws heavily on North American scholarship that has been largely ignored by British crime historians. As will be clear as this thesis develops Judith Fingard is right to contend that the experience of Victorian recidivists in Canadian Halifax is relevant to other nineteenth-century western cities.⁵⁴ In *The Dark Side of Life in Victorian Halifax* (1989) she has succeeded in giving the defendants' 'experience a chance to predominate'.⁵⁵ Throughout this study it should be remembered that applying her findings to Dundee poses no more of a risk of

⁵² Look out for Tim Siddons' dissertation 'Suspicion, Surveillance and Discovery in Cases of Suspected New-born Child Murder in Scotland 1812–1930. Alison Brown's PhD, 'A Social History of Scottish Homicide, 1836–1869' (expected in 2013) seeks to establish the extent to which murder can be linked to social factors such as industrialization, urbanization, poverty and gender.

⁵³ The radio series, 'Killing: The Scottish History of Homicide' is being produced by Billy Kay of Odyssey Productions. For details of the seminar programme at the University of Dundee see www.sipr.ac.uk.

⁵⁴ Judith Fingard, 'Jailbirds in Mid-Victorian Halifax', in R C Macleod, ed, *Lawful Authority: Readings on the History of Criminal Justice in Canada* (Ontario, 1988), p. 64.

⁵⁵ p. 35.

misunderstanding Scottish criminality than applying the findings of English studies. Firstly, immigrants had taken their values of femininity with them to the New World. And on both sides of the Atlantic the discourse of respectability, that confirmed the middle-class feminine stereotype, had profound and long-term influence on the understanding of women's crime.⁵⁶ Secondly, North American and Scottish working women frequently shared the same social background. For example, like Dundee, (British and Protestant) Toronto had a large female labourforce engaged in underpaid unskilled tasks and here too overcrowded and insanitary tenements blighted the skyline.⁵⁷ Thirdly, in North America as in Britain, the police had broad powers over the poorest in society. Their role combined maintaining public order with providing welfare services and the regulation of working-class behaviour, which violated conventional middle-class notions of respectability and urban order, dominated their energies.⁵⁸ The fourth reason why it is appropriate to provide a comparative perspective is that the criminal justice system shared by the separate nations of the United Kingdom had much in common with the US and Canadian legal apparatus. David Barrie finds the Scottish model of policing had more in common with

⁵⁶ Carol Smart, 'Criminological Theory: Its Ideology and Implications Concerning Women', *British Journal of Sociology*, 28 (1977), pp. 95-6, also Zedner, *Women, Crime and Custody* pp. 12-18, Elizabeth M Langdon, 'Female Crime in Calgary 1914-1941', in Louis A Knafla, ed, *Law and Justice in a New Land: Essays in Western Canadian Legal History* (Toronto, 1986), p. 296, Susan Johnston, 'Twice Slain: Female Sex-Trade Workers and Suicide in British Columbia, 1870-1920', *Résumé, Journal of Canadian Historical Association*, 58 (1995) p. 148.

⁵⁷ Helen Boritch and John Hagan, 'Crime and the Changing Forms of Class Control: Policing Public Order in 'Toronto the Good' 1859-1955', *Social Forces* 66 (1987), 307-335, Boritch and Hagan, 'A Century of Crime in Toronto', p. 589, Lori Rotenberg, 'The Wayward Worker: Toronto's Prostitute at the Turn of the Century', in Linda Kealy, ed, *Women at Work Ontario, 1850-1930* (Ontario, 1974) p. 46. Similarly Dodge's study is relevant because Illinois was a large, urban industrialized state: M L Dodge, *'Whores and Thieves' of the Very Worst Kind': A Study of Women Crime and Prisons 1835-2000* (Illinois, 2002), p. 4.

⁵⁸ Helen Boritch, 'Conflict, Compromise and Administrative Convenience: The Police Organization in Nineteenth Century Toronto', *Canadian Journal of Law and Society*, 3 (1988), pp. 160-161.

American cities than English ones, and this is perhaps not surprising given that British officers dominated the Toronto police.⁵⁹ Joanne Belknap's recent study of contemporary literature also reveals that judges and criminologists responded to female offenders in much the same way.⁶⁰ And since North American scholars draw upon British crime studies, when assessing the western tradition of criminal justice, British scholars are surely justified in referring to the American chronicles.⁶¹

Given that the American, English and Scottish legal systems had deep shared roots long before the Glorious Revolution, it is unsurprising that there were common institutions.⁶² English common law on keeping brothels, for example, had been transplanted to Canada. Britain and America influenced English Canada in its response to female crime, and there were analogous systems of inebriate reformatories because ideas about how best to deal with habitual drunkards were swapped freely across the Atlantic. Another pertinent similarity is borne out by the evidence that in both Dundee and Toronto the tradition of presenting the magistrate with a pair of white kid gloves, when the court roll was empty, was practised.⁶³

⁵⁹ In 1881 only 28 % of constables were Canadian born: Boritch, 'Conflict, Compromise and Administrative Convenience', pp. 144, 154, Barrie, 'A Typology of British Police', pp. 259-277.

⁶⁰ Joanne Belknap, "'Offending Women": A Double Entendre', *The Journal of Criminal Law and Criminology*, 100 (2010) 1061-1097.

⁶¹ Dodge, 'Whores and Thieves', Boritch, 'Conflict, Compromise and Administrative Convenience'.

⁶² Michael Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago* (Cambridge, 2003), p. 7.

⁶³ Mariana Valverde, 'Introduction to the Age of Light, Soap and Water', in Amanda Glasbeek, ed, *Moral Regulation and Governance in Canada History, Context, and Critical Issues* (Toronto, 2006) p. 117, Constance B Backhouse, 'Nineteenth-Century Canadian Prostitution Law Reflection of a Discriminatory Society', *Histoire Sociale*, 36 (1985), p. 388, Unknown, *The Municipal History of the Royal Burgh of Dundee* (Winter and Duncan: Dundee, 1878), p. 6, Stephen Galton, "Once a Drunkard Always a Drunkard": Social Reform and the Problem of 'Habitual Drunkenness' in Australia, 1880-1914, *Labour History*, 53 (1987), 38-53 p. 44, Donald Fryson,

Over recent years, parallel with developments in crime history, there has been a rapid pace of research in British (including Scottish) legal history, most notably of the medieval and early-modern period.⁶⁴ Key texts that look at societal attitudes towards offenders include J. M. Beattie's pathbreaking *Crime and the Courts in England 1660–1800* (1986), Philip Rawlings *Drunks, Whores and Idle Apprentices: Criminal Biographies of the Eighteenth Century* (1992). Studies that question whether gender influenced trial outcomes include Peter King's *Crime, Justice, and Discretion in England 1740–1820* (2003), Garthine Walker's *Crime, Gender and Social Order in Early Modern England* (2003), Deirdre Palk's *Gender, Crime and Judicial Discretion 1780–1830* (2006), and winner of the Women's History Network Book Prize, Karen Jones, *Gender and Petty Crime in Late Medieval England: The Local Courts in Kent, 1460–1560* (2006).⁶⁵ However, the legal history of the courts in the nineteenth and early twentieth century remains largely a backwater in both its component disciplines

Magistrates, Police and People: Everyday Criminal Justice in Quebec and Lower Canada, 1764–1837 (London, 2006), Helen Boritch, *Fallen Women: Female Crime and Criminal Justice in Canada* (Ontario, 1997).

⁶⁴ The work of legal historians is to describe and explain the evolution of legal concepts and to produce knowledge about legal institutions, for a basic introduction see J H Baker, *An Introduction to English Legal History* (London, 2002). For a discussion of developments see Jonathan Rose, 'Studying the Past: The Nature and Development of Legal History as an Academic Discipline', *Journal of Legal History*, online (2010), S J Connolly, 'Albion's Fatal Twigs: Justice and Law in the Eighteenth Century', in R Mitchison and P Roebuck, eds, *Economy and Society in Scotland and Ireland, 1500–1939* (Edinburgh, 1988), John Finlay, 'Scots Lawyers and House of Lords Appeals in Eighteenth-Century Britain', *Journal of Legal History* 32 (2011), 249-279, forthcoming *The Community of College of Justice 1687–1808*.

⁶⁵ Also Peter King, 'Decision-Makers and Decision-Making in the English Criminal Law 1750–1800', *The Historical Journal*, 27 (1984), 25-58, and 'Punishing Assault: The Transformation of Attitudes in the English Courts', *Journal of Interdisciplinary History*, XXVII (1996), 43-74 and *Crime and Law in England 1750–1850: Remaking Justice From the Margins* (Cambridge, 2006).

of law and history.⁶⁶ There is, for example, no British equivalent to the detailed study of the Toronto Police Court between 1850 and 1921.⁶⁷ Nonetheless there are a few landmark British studies.

Philip Rawlings' *Crime and Power: A History of Criminal Justice 1688–1998* (1999) is the first extended history of the development of criminal justice in England. Years of archival research by Leon Radzinowicz, Roger Hood and their team of postgraduate students lie behind the most comprehensive British legal history to date: with its wealth of footnotes and extensive bibliographies the five volumes of *A History of English Criminal Law and its Administration from 1750* (1940–1986) is an essential resource for socio-legal historians⁶⁸ And deserving to share the same fate is Volume 13 of *The Oxford History of the Laws of England* (2010).⁶⁹ In Part I of the *Oxford History* Keith Smith provides an account of the evolving nature of the Victorian and early Edwardian criminal justice system. Scotland, however, remains poorly served. This is unsurprising as the interests of the Scottish Legal History

⁶⁶ Patrick Polden, 'Review of 'The Victorian Taxpayer and The Law: A Study in Constitutional Conflict', by Chantal Stebbings', *Journal of Legal History* 31 (2010), p. 208.

⁶⁷ Paul Craven, 'Law and Ideology: The Toronto Police Court 1850–80', in David H Flaherty, ed, *Essays in the History of Canadian Law* (Toronto, 1983), pp. 248-307 and Gene Howard Home, 'Denison's Law: Criminal Justice and the Police Court in Toronto, 1877–1921', *Ontario History*, 73 (1981), 171-186.

⁶⁸ Leon Radzinowicz and J W Cecil Turner, eds, *Penal Reform in England: Introductory Essays on Some Aspects of English Criminal Policy* (London, 1940), L Radzinowicz, *A History of English Criminal Law and its Administration from 1750*, *Cross Currents in the Movement for the Reform of the Police*, Volume 3 (London, 1956), *Grappling for Control*, Volume 4 (London, 1968), L Radzinowicz and R Hood, *The Emergence of Penal Policy in Victorian and Edwardian England*, Volume 5, (London, 1986). For other works of legal history see Philip Rawlings, *English Legal History: A Bibliography* (London, 1999) and the database maintained by Aberystwyth University.

⁶⁹ Charles Mitchell and Charlotte Smith eds, 'English Law 1820–1914: A Review of Volumes 11-13 of the 'Oxford History of the Laws of England'', *Journal of Legal History* 32 (2011), p. 336. For those studying murder Vaughan's *Murder Trials in Ireland, 1836–1914* (Dublin, 2009) is significant.

Group echo those recently displayed at the biennial British Legal History conference with few venturing outside of the early-modern period. This is to summarize the corpus of legal history as such, but interdisciplinary projects have also advanced our knowledge of the nineteenth- and twentieth-century criminal justice system in which our Dundonian women were caught up.

Behaving Badly Social Panic and Moral Outrage (2003) is an interdisciplinary study of the social and legal response to Victorian crime, and of how criminality was presented for popular consumption. Here scholars of law, criminology and social history draw parallels between the nineteenth century and the present.⁷⁰ We can expect more on this theme in light of recent conferences.⁷¹ For now though the most prominent work on the courts in the nineteenth and early twentieth century includes Conley's *The Unwritten Law: Criminal Justice in Victorian Kent* (1991), which looks indirectly at how judges made decisions. Her most recent book, *Certain Other Countries*, acknowledging gender issues, compares the attitudes of judges and juries throughout Britain to homicide. And Martin Wiener's *Men of Blood: Violence*,

⁷⁰ Judith Rowbotham and Kim Stevenson, eds, *Behaving Badly Social Panic and Moral Outrage – Victorian and Modern Parallels* (Hampshire, 2003). Crime historians embrace interdisciplinary study and an early example of this is J J Tobias, *Crime and Industrial Society in the Nineteenth Century* (Middlesex, 1967). Some of the latest crime history is heavily interdisciplinary, for example Philip Howell, David Beckingham, Francesca Moore, 'Managed Zones For Sex Workers in Liverpool: Contemporary Proposals, Victorian parallels', *Transactions of the Institute of British Geographers*, 33 (2008) and Pamela Cox, 'History and Global Criminology: (Re)inventing Delinquency in Vietnam', *British Journal of Criminology*, 52 (2012), 17-31.

⁷¹ David Cox, 'Courtrooms, The Public Sphere and Convicts: An International Symposium', 27–29th September 2010, University of Keele, *Law, Crime and History* (2011), pp. 108-113, www.ssb.plymouth.ac.uk/JP/Solon/solondb.htm [accessed 10 February 2010]. Note also the themed *Crime, History and Societies*, volume 13, no 2, 2009 and 'Courts, the Public Sphere and Convicts', at the University of Keele brought scholars together with the aim of promoting future interdisciplinary research and collaboration.

Manliness and Criminal Justice in Victorian England (2004) also portrays the conflict between judges and juries, often involving gender. Of great importance to this study is the work by Godfrey and Cox et al on the magistracy, and Jennifer Davis's 'A Poor Man's System of Justice' – which provides the cornerstone for all projects concerned with the Victorian police court.⁷² Thanks to Ann Logan we know that the professionalism of magistrates began in earnest in the 1920s.⁷³ And the Donovan/Lawrence collaboration, on road traffic offending in London, underlines how police magistrates continued to make compromises when enforcing legislation in

⁷² Martin J Wiener, 'Judges v Jurors: Courtroom Tensions in Murder Trials and the Law of Criminal Responsibility in Nineteenth-Century England', *Law and History Review*, 17 (1999), 467-506. He has also analysed the court system transplanted abroad in: 'An Empire of Law? Violence, Race and Imperial Authority in the British Empire 1880–1930' and work in progress looks at the treatment of murderers by Victorian courts. He is best known for 'The Wiener Debate' surrounding his *English Culture and the Decline of the Industrial Spirit 1850–1980* (Cambridge, 1981). Barry Godfrey, 'Law, Factory Discipline and 'Theft: The Impact of the Factory on Workplace Appropriation in Mid to Late Nineteenth-Century Yorkshire', *British Journal of Criminology*, 39 (1999), 56-71, 'Judicial Impartiality and the Use of Criminal Law Against Labour: The Sentencing of Workplace Appropriators in Northern England 1840–1880', *Crime, History and Societies*, 3 (1999), 57-72. Godfrey, Stephen Farrall and Susanne Karstedt, 'Explaining Gendered Sentencing Patterns for Violent Men and Women in the Late-Victorian and Edwardian Period', *British Journal of Criminology*, 45 (2005), 696-720, Godfrey, Farrall and David J Cox, *Criminal Lives: Family Life, Employment and Offending* (Oxford, 2007), Godfrey, Cox, D'Cruze, 'The Most Troublesome Women in Crewe', Cox and Godfrey, eds, *Cinderellas and Packhorses: A History of the Shropshire Magistracy* (Herefordshire, 2005). Helen Johnston, 'The Shropshire Magistracy and Local Imprisonment: Networks of Power in the Nineteenth Century', *Midland History*, Vol. XXX, (2005) 67-91. James, 'Drunk and Riotous in Pontypridd'.

⁷³ Jennifer Davis 'The London Police Courts in the Second Half of the Nineteenth Century', *The Historical Journal*, 27 (1984), 309-335, J S Davis, 'Prosecutions and Their Context: The Use of the Criminal Law in Later Nineteenth-Century London', in D Hay and F G Synder, eds, *Policy and Prosecution in Britain 1750–1850* (Oxford, 1989). Anne Logan, 'Professionalism and the Impact of England's First Women Justices, 1920–1950', *The Historical Journal*, 49 (2006), 833-850, also 'Women and the Provision of Criminal Justice Advice: Lessons From England and Wales 1944–1964', *British Journal of Criminology*, 50 (2010), 1077-1093.

the inter-war and post-war period just as they had done in the nineteenth century.⁷⁴ In all likelihood this was the case in Scotland too, as Hughes' examination of domestic violence trials reveals great judicial autonomy. But as the brevity of the list indicates, our knowledge of the police courts, where the majority of offenders were tried, and of the lay justices who prosecuted them, remains tremendously incomplete. In these circumstances we can only turn to North American crime and legal history to bridge some of the gaps.

In placing Dundee's female offender in context this thesis draws on several fields of North American scholarship. The field of prostitution history is particularly rich. There is much that is of interest to the crime historian in Nuala O'Faolain's *The Story of Chicago May* (2005). May, an Irish-born prostitute-thief, who 'used so many aliases [to thwart the American police] that she couldn't remember them herself', recounted her exploits in her 1920s autobiography—written in response to the encouragement of a police reformer—but this is only one of the sources O'Faolain has at hand when scrutinizing her extraordinary life. By 1917 May was working the very worst streets for a pittance and stealing whenever the opportunity arose. Indeed, like other American scholars of the nineteenth and early twentieth century O'Faolain makes the same connection between prostitutes, poverty and crime as British researchers, whilst being similarly wary of taking the word of contemporaries, transfixed by the cult of respectability, at face value.⁷⁵ Robert Riegel provides an

⁷⁴ Pamela Donovan and Paul Lawrence, 'Road Traffic Offending and an Inner London Magistrates' Court 1913–1963', *Crime, History and Societies*, 12 (2008), pp. 119–121.

⁷⁵ The author challenges assumptions asking '[m]ight it not be the case that her life was chosen by her, insofar as she was free to choose?' Nuala O'Faolain, *The Story of Chicago May* (London, 2005), p. 6. The counterpart of the British streetwalker, incidentally, was housed in 'cribs'.

overview of the common tropes in the context of American prostitution between 1800 and 1920. Elizabeth Clement and Timothy Gilfoyle discuss the vice trade and the New Yorker's discourse.⁷⁶ And drawing on direct testimony Rosen identifies, in the same period, a subculture of prostitution that 'offered valuable ways of helping women to defend [themselves] against social devaluation.'⁷⁷ Accounts from frontier America, however, demonstrate that in the absence of 'respectable' women the common tropes found elsewhere were equally absent.⁷⁸

In its regulation of prostitution English Canada took its cue from Britain, although there were important differences. Prostitution was not an offence in English, American or Scottish law; there had to be annoyance. In contrast, in Canada a prostitute found in a public area was a criminal and once her status was established conviction automatically followed.⁷⁹ Yet despite the legislative differences parallels repeatedly surface. Pioneering scholar Constance Backhouse, in *Petticoats and Prejudice: Women and Law in Nineteenth Century Canada* (1991), devotes a chapter to prostitutes (white, black and coloured), the law and legal institutions. One of her

⁷⁶ Robert E Riegel, 'Changing American Attitudes Toward Prostitution 1800–1920', *Journal of the History of Ideas*, 29 (1968) 437–452, Elizabeth Alice Clement, *Love for Sale: Courting, Treating and Prostitution in New York City, 1900–1945* (North Carolina, 2006), Timothy J Gilfoyle, *City of Eros: New York City, Prostitution and the Commercialization of Sex, 1790–1920* (London, 1992).

⁷⁷ Ruth Rosen, *The Lost Sisterhood: Prostitution in America, 1900–1918* (Baltimore and London, 1982), p.102.

⁷⁸ See Marion Goldman's sociological study of the history of prostitution *Gold Diggers and Silver Miners: Prostitution and Social Life on the Comstock Lode* (Michigan, 1981), Ann M Butler, *Daughters of Joy, Sisters of Mercy: Prostitutes in the American West 1865–90* (Chicago, 1987), Mary Murphy, 'The Private Lives of Public Women: Prostitution in Butte, Montana, 1878–1917', *Frontiers: A Journal of Women Studies*, 7 (1984) 30–35.

⁷⁹ John P S McLaren, 'Chasing the Social Evil: Moral Fervour and the Evolution of Canada's Prostitution Laws 1867–1917', *Canadian Journal of Law and Sociology*, 125 (1986), pp. 126–127, Backhouse, 'Nineteenth-Century Canadian Prostitution Law', p. 389.

case studies, Mary Ann Gorman, spent 1873 almost entirely behind bars. Like the women we shall meet in Dundee, Gorman was no sooner released from prison than she was back in the cells again. Backhouse reflects that it is difficult to imagine how the police could continue to list her as a prostitute since she had almost no time to practise the trade.⁸⁰

British and North American historians of prostitution, as well as socio-legal scholars, have made a priority of analysing the policing of streetwalkers in the late nineteenth and early twentieth centuries.⁸¹ The legal historian Keith Smith highlights the shifting attitudes and significant variations in how the law was enforced between individual police forces and their strategically controlling authorities.⁸² But despite the recent scholarship, in the British context at least, far more work needs to be done. As Howell observes, this is especially true of towns outside the narrow geographical remit of the Contagious Diseases Acts 1864–1886, of which Dundee was one.⁸³

Researchers agree that the police were agents of the state, tasked with the moral reform of the working classes, and that they used their discretion to determine who was charged with a criminal offence and thereby who was brought before the courts.⁸⁴

⁸⁰ p. 237.

⁸¹ Laite, 'Prostitution in London, 1885–1930', Petrow, *Policing Morals: The Metropolitan Police and the Home Office 1870–1914*, Stefan Slater, 'Prostitutes and Popular History: Notes on the 'Underworld', 1918–1939', *Crime, History and Societies*, 13 (2009), 25–49. For a bibliography on policing see: <http://www.oldbaileyonline.org/satic/PolicingBibliography.jsp>.

⁸² Smith, *Oxford History of Laws*, pp. 355, 6.

⁸³ Howell et al, 'Managed Zones for Sex Workers in Liverpool', online, no page numbers. The CD Acts did not apply to Dundee.

⁸⁴ Mark Clapson and Clive Emsley, 'Street, Beat and Respectability: The Culture and Self-Image of the Late Victorian and Edwardian Urban Policeman', *Policing and War in Europe Criminal Justice History*, 16 (2002), 107–31, Emsley, *The Great British Bobby: A History of British Policing from the Eighteenth Century to the Present*

Understanding how the police used their considerable autonomy is one of the questions asked in this study. It is one of the most hotly debated topics in criminology, and an essential issue for crime historians given that, as we shall see, the judicial statistics reflect this discretionary system.⁸⁵ Yet research has been thin. David Englander recently writing in relation to another neglected area of policing—the regulation of Jewish communities—suggests that the scope of police work owed less to external controls and more to the officer’s perception of his working environment. This, in his view, was ‘conditioned partly by prejudice and partly by professional self-interest’. His analysis fits well with Joanne Klein’s latest work.⁸⁶ She argues that the constable was effectively classless and devised his own sociology as a result of his experience on the streets. By exemplifying the different ways constables outside of London responded to everyday offenders Klein’s *Invisible Men: The Secret Lives of Police Constables in Liverpool, Manchester and Birmingham, 1900–1939* (2010) has rendered an important service to future generations of historians. Not many scholars have considered provincial police forces and not many have added to our knowledge of policing in the inter-war years. Klein’s advice that we should not romanticize constables as either bobbies or villains provides an interpretative framework for the findings posited here about the treatment of Dundee’s female offenders at the hands of the local police.⁸⁷

(London, 2009), John Weaver, *Crimes, Constables and Courts: Order and Transgression in a Canadian City, 1816–1970* (London, 1995), Eric Monkkonen, *Police in Urban America 1860–1920* (Cambridge, 1981).

⁸⁵ Dodge, ‘Whores and Thieves’, p. 72.

⁸⁶ David Englander, ‘Policing the Ghetto: Jewish East London, 1880–1920’, *Crime, History and Societies*, 14 (2010), 36, 38, and similarly Haia Shpayer-Makov, *The Making of a Policeman: A Social History of a Labour Force in Metropolitan London, 1829–1914* (Aldershot, 2002).

⁸⁷ Klein, *Invisible Men*, p.10.

This dissertation makes frequent references to sociological research from Chapter 4 onwards and Carol Smart's *Women, Crime and Criminology: A Feminist Critique* (1976) is generally regarded as essential reading for all those who seek to understand the treatment of the female offender.⁸⁸ Smart explores the widespread nineteenth-century practice of comparing the female offender with the feminine ideal. And following her lead, since the 1970s, feminist criminologists have devoted considerable energy to identifying the sexist and misogynist theories of the Victorian past because, in Anne Campbell's words, these 'second-rate theories' continue to be applied to the 'second sex' in our own times.⁸⁹ Insights into crime history are also provided by the large number of 'disposition' studies, on both sides of the Atlantic, that weigh up the evidence on the related issues of social control and sexism in legal processes, both from a non-feminist and feminist position.⁹⁰

Sociologists, assessing the 'sex effect' or the 'sex factor' on the modern judiciary's treatment of women, have taken different positions.⁹¹ Smart takes the line that the law is not neutral; rather women offenders are measured against the ideal of the

⁸⁸ Joan Sangster, 'Pardon Tales' from Magistrate's Court: Women, Crime and the Court in Peterborough County 1920–50', *Canadian Historical Review*, 2 (1993), p. 177, Ellen Adelberg and Claudia Currie, eds, *Too Few to Count: Canadian Women in Conflict with the Law* (Vancouver, 1987), p. 57. Freda Adler and Rita James Simon, eds, *The Criminology of Deviant Women* (Boson, 1979) is also a good place to study what has been said about female crime.

⁸⁹ Anne Campbell, *Girl Delinquents* (Oxford, 1981), p. 36, Meda Chesney-Lind, 'Women and Crime': The Female Offender', *Signs*, 12 (1986), 78-9, Heidi Slettedahl Macpherson, *Courting Failure: Women and the Law in Twentieth-Century Literature* (Akron, 2007).

⁹⁰ Dodge, 'Whores and Thieves', p. 111.

⁹¹ Boritch, *Fallen Women*, p. 149. Hermann Mannheim, 'The Sex Factor: Female Delinquency' (1965), in W G Carson, and Paul Wiles, eds, *The Sociology of Crime and Delinquency in Britain Volume I: The British Tradition* (London, 1975), pp. 44-52.

submissive and maternal feminine ideal.⁹² The Scottish barrister Helena Kennedy represents the current more moderate feminist line when she suggests that while few of today's judges consciously discriminate against women, unconsciously they apply stereotyped attitudes of ideal womanhood when decision making.⁹³ Other scholars, developing this perspective, find that female offenders who display gender-appropriate behaviour benefit from judicial paternalism and are actually treated more *leniently* than their male counterparts. (Although Otto Pollak, in *The Criminality of Women* (1950) identified partiality towards women.)⁹⁴ In recent years a number of sociological studies have challenged the feminist thesis altogether, finding that it is not gender per se that is key to explaining the treatment of women in the criminal justice system, but their marital status, the seriousness of their offence and their previous convictions.⁹⁵ And most recently, Scotland's Commission on Women Offenders found 'no evidence to suggest that the courts displayed a bias against women'.⁹⁶

⁹² Carol Smart, 'Feminist Approaches to Criminology or Postmodern Woman meets Atavistic Man', in Loraine Gelsthorpe and Allison Morris, eds, *Feminist Perspectives in Criminology* (Milton Keynes, 1990), pp. 79, 80.

⁹³ Helena Kennedy, *Eve was Framed: Women and British Justice* (London, 1993), p. 73, see also H Frankway Jr, 'The Study of Judicial Attitudes: The Case of Mr Justice Douglas', *The Western Political Quarterly*, 24 (1971), 12-23, Alexander B Smith, and Abraham S Blumberg, 'The Problem of Objectivity in Judicial Decision-Making', *Social Forces*, 46 (1967), p. 96.

⁹⁴ Candace Kruttschnitt, 'Social Status and Sentences of Female Offenders', p. 247, Kathleen Daly, 'Discrimination in the Criminal Courts: Family, Gender and the Problem of Equal Treatment', *Social Forces*, 66 (1987), 152-175, Otto Pollak is a 'female iceberg' theorist. He suggested that women were deviant but that they were successful at concealing it: *The Criminality of Women* (Philadelphia, 1950).

⁹⁵ Candace Kruttschnitt, 'Women, Crime and Dependency: An Application of the Theory of Law', *Criminology*, 19 (1982), p. 496, Christine E W Bond and Samantha Jeffries, 'Indigeneity and the Judicial Decision to Imprison: A Study of Western Australia's Higher Courts', *British Journal of Criminology*, 51 (2011), pp. 267-273.

⁹⁶ *Report of the Commission on Women Offenders* (Scotland, 2012), p. 19.

Just as there is no consensus amongst modern criminologists about the objectivity of the judicial system there is no agreement amongst historians about how the legal system adjudicated the women who most obviously defied social norms in the past. Several historians identify prejudice in the eighteenth- and nineteenth-century British and North American courts.⁹⁷ Some of those specifically concerned with women's experience concur with Zedner's conclusion that 'the seriousness of female crimes was measured primarily in terms of women's failure to live up to the requirements of the feminine idea.' And it is usually evidence of discrimination against prostitutes that features strongly in their verdict.⁹⁸ In contrast, other scholars find that constructions of femininity were not a prime determinant of judicial policy. They highlight the lenient treatment of female offenders, including prostitutes, by courts in Britain, Australia and North America. These historians, echoing the developments in sociology, conclude that judges considered the context of the defendants' criminality above their gender.⁹⁹

⁹⁷ Harvey J Graff, 'Crime and Punishment in the Nineteenth Century: A New Look at the Criminal', *Journal of Interdisciplinary History*, VII (1977), pp. 489, 490, and, 'Pauperism, Misery and Vice': Illiteracy and Criminality in the Nineteenth Century', pp. 258, 262, J M Beattie, *Crime and the Courts in England 1660–1800* (Oxford, 2002), p. 440.

⁹⁸ Zedner, *Women, Crime and Custody*, p. 2, Curtin, 'Female Prisoners in Galway', p. 181, Lee, 'Regulating Prostitution in Nineteenth-Century Kent', p. 95, Jonathon Mood, 'If We're Petticoat Clothed, We're Major Minded': Working-Class Women and the Meat Boycott of 1872', *Women's History Review*, 18 (2009), p. 411, Dodge refers to cases where a woman's reputation rather than real evidence convicted her: '*Whores and Thieves*', pp. 8, 89, 121.

⁹⁹ King finds the double jeopardy / double deviance theory difficult to apply to the eighteenth-century courts: see *Crime and Law in England 1750–1850*, pp. 190–191, 194 and his 'Gender, Crime and Justice in Late Eighteenth- and Early Nineteenth-Century England', p. 57. Also Garthine Walker, *Crime, Gender and Social Order in Early Modern England* (Cambridge, 2003), pp. 206–7, Grace, 'Female Criminality in York and Hull', p. 200, Fingard, *The Dark Side of Life*, p. 32, Backhouse, *Petticoats and Prejudice*, p. 240, David Fleming, 'Public Attitudes to Prostitution in Eighteenth-Century Ireland', *Irish Economic Social History*, XXII (2005), p. 18, Luddy, *Prostitution and Irish Society*, p. 47, Carolyn A Conley, 'No Pedestals: Women and Violence in Late Nineteenth-Century Ireland', *Journal of Social History*, 28 (1995),

Chapter 5 of this thesis, by examining the experience of Dundee's female recidivists, adds to the debate surrounding what Anne Edwards calls the 'unresolved controversy' of women's treatment by the courts.¹⁰⁰ Whether class influenced the operation of the criminal justice system is an altogether different matter outside the remit of this research, as is the question whether youth were favoured – although occasional references will be made here to the impact of age on sanctioning outcomes.

To date few researchers have considered the impact of gender on the sentencing of Victorian habitual offenders. Those that have disagree on the extent to which 'the sex effect' alone predicted trial outcomes. Zedner and Morrison are convinced that the courts embodied cultural constructions.¹⁰¹ Godfrey, Farrall and Karstedt, on the other hand, argue that female offenders were not discriminated against.¹⁰² And we find the same dispute played out between Canadian legal historians. Jim Phillips finds that women were sentenced more harshly in Victorian Halifax because their disobedience 'was more troubling than that of [men] ... whose offending was more expected'. Helen Boritch, in the context of Ontario 1871–1920, also foregrounds gender as the reason why women were sentenced more severely. Sangster, however, rejects the relevance of the social control thesis to the sentencing of habitual offenders in Peterborough County.¹⁰³

pp. 801, 814, Godfrey, Farrall and Karstedt, 'Explaining Gendered Sentencing Patterns', p. 700, Shore, 'The Reckoning', p. 409.

¹⁰⁰ Anne R Edwards, 'Sex / Gender, Sexism and Criminal Justice: Some Theoretical Considerations', *International Journal of the Sociology of Law*, 17 (1989), p. 166.

¹⁰¹ Zedner, *Women, Crime and Custody*, p. 2, Morrison, 'Ordering Disorderly Women', p. 10.

¹⁰² Godfrey, Farrall and Karstedt, 'Explaining Gendered Sentencing Patterns', p. 717.

¹⁰³ Jim Phillips, 'Women Crime, and Criminal Justice in Early Halifax, 1750–1800', in Jim Phillips, Tina Loo and Susan Lewthwaite, eds, *Essays in the History of*

Can the disagreements between scholars on the impartiality of the law be attributed to a lack of objectivity? Certainly Pisciotta, writing about juvenile justice literature, observes that criminological historians, like sociologists, too often attempt to support ‘a priori assumptions ... from criticism and inconsistent data’.¹⁰⁴ Pursuing a theoretical perspective will obviously increase the risk that evidence is cherry picked, but we should also acknowledge that crime is a notoriously difficult area to research.¹⁰⁵ And it is likely that some of the disagreements between scholars have been shaped by the contradictions and complexities in the value-laden sources and also by the fact that there were hugely variable levels of diligence and intervention by magistrates and the police. The following section will address some of the most obvious difficulties in scrutinizing the evidence, in the context of the approach taken to the sources utilized in the forthcoming chapters.

Canadian Law, Volume 5 (Toronto, 1994), pp. 174-206. Also ‘Poverty, Unemployment, and the Administration of the Criminal Law: Vagrancy Laws in Halifax, 1864–1890’, in Philip Girard and Jim Phillips, eds, *Essays in the History of Canadian Law: Volume 3 – Nova Scotia* (Toronto, 1990), p. 128. Helen Boritch, ‘Gender and Criminal Court Outcomes: An Historical Analysis’, *Criminology*, 30 (1992), 293-325, and ‘The Criminal Class Revisited: Recidivism and Punishment in Ontario 1871–1920’, *Social Science History*, 29 (2005), pp. 153, 162-163, Sangster, ‘Pardon Tales’.

¹⁰⁴ Citing Kuhn and Ritzer, Alexander W Pisciotta, ‘Theoretical Perspectives for Historical Analyses: A Selective Review of Juvenile Justice Literature’, *Criminology*, 19 (1981), p. 118.

¹⁰⁵ Although feminists contest that their insights are no less objective or ‘true’ than those gleaned from non-feminist approaches, see Boritch *Fallen Women*, p. 72.

1.2 ‘Doing Historical Research is Rather Like Doing a Jigsaw Puzzle’,¹⁰⁶

The methodology behind this thesis is the one Pisciotto amongst others recommends. That is, a wide range of sources, including statistical, are investigated in ways befitting their limitations and in light of interdisciplinary scholarship.¹⁰⁷ Here an outline of the method is provided. In the first instance we need to consider the rationale behind the high court sample analysed in the following chapters. Secondly, we must examine the challenges of determining the authentic voice of the defendant in Dundee’s court records and how they have been met. Then the problems with the quantitative evidence are documented before we turn finally to the contemporary reports on working-class life.

1.2 a) The High Court Sample

‘I pawned some of the things, and some of them were got by the police in my house. The coat was cut up and sent to a rag-store’, Jane McBlain told Dundee’s procurator fiscal in advance of her high court trial for theft.¹⁰⁸ Her statement is valuable to the historian because it indicates the association between the thief and pawnshop and we can deduce that McBlain had not stolen the coat to wear. When we go to the sources we want to know how typical was this recidivist thief.

¹⁰⁶ Richard J Evans, *In Defence of History* (London, 2000), p. 89.

¹⁰⁷ Ibid., Emsley at Leeds Crime Symposium 4/5th September 2008, Walker, *Crime, Gender and Social Order*, p. 5, David Philips, David, *Crime and Authority in Victorian England: The Black Country 1835–1860* (London, 1977), p. 44.

¹⁰⁸ JC26/1882/58.

The high court records concerning Dundee's female offenders are held by the National Archives in Edinburgh, on the Solemn Database. The Database contains information relating to the sentence, occupation and sometimes the previous offences of those tried, as well as when they appeared at the Dundee Police Court. Because issues of data protection prevented the inspection of the Solemn Database beyond 1900, this research was limited to the 215 nineteenth-century trials, and of these eighty-one records have been analysed in detail for this study.

A process of elimination, based on the trial record's ability to provide insights on the profile of Dundee's female offender and her treatment by the criminal justice system, determined the size of sample. (The fact that the majority of high court records were from the 1860s and 70s simply reflects the detail in the Victorian documents.) Those trials concerned with women from outside Dundee were eliminated from the list of 215 first (and there is an issue of accuracy when thieves living in Brechin and Montrose are presented in a Dundonian search). The defendants who perpetrated crimes not covered by the research were discarded next. Hence the cases of assault to the effusion of blood and serious injury to the person, fire-raising, fraud, theft by housebreaking, handling stolen property, concealment of pregnancy, infanticide, incest and murder were all excluded. Then the non-proven trials were dismissed in order that the sample reflect only convicted female offenders. Because our focus is on Dundee's petty crime it was also necessary to try to isolate petty criminals from those who presented a serious risk to society. That, however, was not easy as it was not always possible to draw a boundary between the petty and serious crimes tried at the high court because a number of women stole mats and bedding as well as property of

considerable value.¹⁰⁹ Moreover, some prostitutes could be very violent. Margaret Robertson Smith or Woodcockit, for example, seized her client by his throat and compressed it before robbing him of a purse and some of his clothes.¹¹⁰

Petty offenders were tried at both Dundee's High and Sheriff Courts. Unfortunately the only sheriff court records to have survived from this period are the indictment papers for trials by jury, and these do not contain the defendant's declaration. As for the trials at the police court, in Scotland magistrates made few records, and those from Dundee were destroyed long ago.¹¹¹ Nevertheless, because the courts' business was a popular feature of the local press, this study will attempt to define and contextualize the most prevalent female crime in the city using the published trial reports.

1.2 b) 'The Confession of a Jealous Wife': And Other Revelations in the Press¹¹²

¹⁰⁹ Petty thieves progressed from the lowest tier of the judicial system, the police court, to the sheriff court if they continued to commit crime, and finally to Edinburgh's High Court of Justiciary, or the high court on circuit, which had unlimited jurisdiction. Thus, a woman who had stolen a door-mat, for example, would be regarded as a serious offender and would find herself at the high court if she had a string of previous convictions.

¹¹⁰ *DA*, 4 April 1876.

¹¹¹ Sheriffs were Scottish judges appointed at county level with a remit for all summary proceedings. The sheriff court had jurisdiction for all crimes not within the exclusive competence of the high court, the police court dealt with the vast majority of offences regarded as minor. The Scottish legal system will be discussed in Chapter 3. Note that in this study sheriff will be spelt thus, elsewhere sherrif is sometimes used.

¹¹² *WN*, 19 March 1887.

Dundee's *Weekly News*' police court column records that on Wednesday 13th May 1871 before Bailie Cox:¹¹³

Ann Lowson, Fish Street, made her 55th appearance, charged with having conducted herself in a disorderly manner in Greenmarket on Tuesday night ... Jessie McKinly, Constitution Road, pleaded guilty to a charge of having conducted herself in a disorderly manner in Constitution Road on Tuesday night ... Margaret Thomson or Scott was remitted to the Fiscal on a charge of having stolen a flannel petticoat from a rope at the window of a house in Bain Square on Tuesday afternoon.¹¹⁴

Today the investigation of how the media report crime is an established field of criminology and scholars believe that the public are presented with a distorted image.¹¹⁵ In the same way suspicions of skewed reporting in the past led crime historians to be wary of using newspaper reports, such as the one above, as evidence.¹¹⁶ A significant problem, as D'Cruze, Godfrey and Cox acknowledge, is that it is often impossible to discern the authorship of a published court report.¹¹⁷ There were several participants in a summary Dundonian trial: the judge, the procurator fiscal, the witness (usually the arresting policeman), the journalist and of course the defendant.¹¹⁸ What appears to be a verbatim account of the defendant's response to the charge was in fact, as Andy Davis explains, mediated via the

¹¹³ In brief, the procedure was that the bailie, accompanied by the assessor (who advised him on points on law) occupied the bench. The procurator fiscal brought the prosecution and the clerk declared the charges, then the procurator would enquire of the defendant whether they were 'guilty or not guilty?': *PJ*, 15 April 1922. Bailies were magistrates elected by the councillors of a borough with powers similar to JPs. Magistrates had the initial filtering role for trials on indictment at the sheriff court.

¹¹⁴ *WN*, 13 May 1871.

¹¹⁵ Adelberg and Currie, eds, *Too Few to Count*, p. 13, Eamonn Carrabine and Others, *Criminology: A Social Introduction* (London, 2004), p. 335.

¹¹⁶ Jenny Kermode, ed, *Women, Crime and the Courts in Early Modern England* (London, 1994), p. 352.

¹¹⁷ D'Cruze, Godfrey and Cox, "The Most Troublesome Women in Crewe", p. 9.

¹¹⁸ A summary trial was without a jury as opposed to a trial on indictment (with a jury). The procurator fiscal gathered pre-trial evidence for the prosecution (the precognition). Dundee's Chief Constables Dewar and Carmichael took on the role.

shorthand of the court correspondent about whom we know scarcely anything.¹¹⁹ A nice example of how this impacts on the data can be seen in the slightly different slant given by two Dundonian papers reporting on the same case in February 1886. *The Weekly News* cited the defendant saying she had sold the allegedly stolen petticoats [to the pawnbroker] to get food for herself 'as she was unsuccessful in finding employment'. *The Advertiser's* reporter presents the defendant in a more sympathetic light, by adding that she told the court she intended to repurchase the petticoats when she got work: this difference mattered because for a criminal offence to be proven there had to be the intention of permanently depriving the owner of their possession.¹²⁰

One frustration with the published crime reports is that they never reflect the whole court roll. *The Advertiser*, a daily between 1866 and 1895, yields an extreme example. During this time the police magistrates were sitting for at least one hour, six days a week—at a guess pondering the actions of around twelve defendants per session—yet frequently *The Advertiser* reported only one or two local trials daily.¹²¹ National execution cases, on the other hand, were covered in great detail.¹²² *The Advertiser's*

¹¹⁹ Andrew Davies, 'Youth Gangs, Masculinity and Violence in Late Victorian Manchester and Salford', *Journal of Social History*, 32 (1998), p. 352. Before the First World War there were no crime correspondents as we understand the term today and little is known about the Victorian and Edwardian police court reporters.

¹²⁰ *WN*, 13 February 1886, *DA*, 9 February 1886.

¹²¹ *DA*, 1 and 5 February 1866. Average duration of Dundee Police Court sittings: 1878 1 hr 30 mins a day, 1892 50 mins a day, 1894 1 hour a day, 1901 1 hr 11 mins a day, 1906 1 hour a day, 1916 30 mins a day, 1917 30 mins a day, 1918 30 mins a day, 1919 45 mins a day, 1924 45 mins a day, 1933 36 mins a day from *PoR* of those years.

¹²² *DA*, 1 February 1866, 23 May 1866 for a similar focus on dramatic see *C*, 12 March 1889.

interest in the dramatic is a pattern widely recognised by historians,¹²³ and it is a problem that increasingly blights the value of Dundee's press as a historical source as the decades pass. Over the period the newspapers' tiny font and inconspicuous subheadings are replaced by bigger and bolded lettering, advertisements become increasingly prominent and, in turn, photographs dominate the print space. Meanwhile the court columns shrink and are finally abandoned around the turn of the century, superseded by local news columns with only potted accounts of the most newsworthy cases. Because the immensity of the events surrounding the First World War saw interest in the inferior courts all but vanish, the lack of published trial reports insists that the War years barely feature in this study.¹²⁴ The following statement leads us to suspect that a section of Dundee's working class are permanently underrepresented in the archives: 'There were a great number of persons charged with being drunk and disorderly ... [who] failed to appear and forfeited pledges'.¹²⁵

This statement, at the end of *The Advertiser's* court report, in February 1866, is commonly found in Dundee's press. The city's byelaws, used at the policeman's discretion, provided that individuals charged with a trifling offence could avoid custody and a court appearance. Firstly, the defendant could pay an on-the-spot fine, or, alternatively, they could provide a financial pledge to guarantee their appearance before the magistrate. Dewar reported in November 1894 that as well as the 47 men

¹²³ Elizabeth Foyster, 'Introduction: Newspaper Reporting of Crime and Justice', *Continuity and Change*, 22 (2007), p. 11, Peter King, 'Making Crime News: Newspapers and the Selective Reporting of Old Bailey Trials in the Late Eighteenth Century', *Crime, History and Societies*, 13 (2009), p. 111, and 'Newspaper Reporting and Attitudes to Crime and Justice in Late-Eighteenth- and Early-Nineteenth-Century London', *Continuity and Change*, 22 (2007), 73-112.

¹²⁴ The detail provided in Dundee's police court columns are at their height c 1875–1905.

¹²⁵ *DA*, 13 February 1866, and 12 June 1866.

and 28 women brought to court for being drunk and incapable 22 others had forfeited pledges of 10s, as was typical of Dundee's system.¹²⁶ *The Advertiser's* 1866 statement confirms that it was not unusual for defendants to forfeit the pledge, indeed in some court sittings as many as 40 per cent of offenders failed to appear, although the figure was usually closer to 30 per cent.¹²⁷ In Chapter 2 we shall see that there was another aspect to the fines system: as well as the police enforcing financial penalties for anti-social behaviour, judges gave convicted offenders the option of paying a fine in lieu of serving a prison term. For now we will consider the impact of the on-the-spot system because the women who could afford to pay the police fine and chose to forfeit the pledge evade historical scrutiny. Canadian research suggests that prostitutes (or their pimps) often stood the money, so it might be that this cohort is underrepresented in Dundee's newspaper reports.¹²⁸ Unfortunately when prostitutes *do* appear the image refracted through the journalists' lens is peculiarly distorted.

In Chapter 3 it will be shown that the analysis of the relationship between prostitution and crime is hindered by the journalists' employment of obfuscatory language and euphemism. And since there is, in the main, insufficient detail in the court columns to trace individuals through the census returns, the difficulty of identifying criminal families frustrates the discussion of the city's criminal class. That said, in the face of the destruction of the original police court records, were it not for the newspapers' coverage of local crime this study would have been impossible. There are, though, a

¹²⁶ *RHO*, 12, 787.

¹²⁷ See *PJ*, 28 May 1881, 6 June 1881.

¹²⁸ Judy Bedford, 'Prostitution in Calgary 1905–1914', *Alberta History*, 1 (1981), p. 8, Kay Ann Holmes, 'Reflections by Gaslight: Prostitution in Another Age', *Issues in Criminology*, 7 (1972), 83–101.

host of more substantial justifications for why this thesis, like countless North American and British crime histories, relies so heavily on newspapers.¹²⁹

Stefan Slater is right to observe that while the contents of sources cannot wholly be disentangled from the discourses, concerning their production, they can nevertheless offer insight into social reality.¹³⁰ In the same vein the trial reports, filtered through the court apparatus, can still provide an approximation of the truth. For example, Eleanor Gordon and Gwyneth Nair doubt that the Scottish press constructed an image of Madeline Smith for the purpose of increasing the sensation around her Victorian murder trial, since her portrayal was just ‘too universally shared to have been manufactured’.¹³¹ The same can be said about the image provided of drunk and disorderly offenders in Dundee’s press for it correlates strongly both with the (unquestionably) verbatim declarations made by women appearing at the High Court and with the profile drawn of offenders in the previous English histories of crime. Indeed, the striking echo between Dundee’s High Court papers and the details reported by the local press indicate that journalists were tasked with producing a faithful account of trial proceedings. And it is reasonable to suppose that the city’s judges were satisfied with the accuracy of their shorthand as evidence to the contrary

¹²⁹ Examples include Martin J Wiener, ‘Convicted Murderers and the Victorian Press: Condemnation vs Sympathy’, *Crimes and Misdemeanours*, 1 (2007), p. 110, Kate Colquhoun, *Mr Briggs’ Hat: A Sensational Account of Britain’s First Railway Murder* (London, 2011), p.46, Paul O’Leary, ‘Networking Respectability: Class, Gender and Ethnicity Among the Irish in South Wales, 1845–1914’, *Immigrants and Minorities*, 23 (2005), p. 258, Luddy, *Prostitution and Irish Society*, 46, Walkowitz “‘We are not beasts of the field”, p. 86, Lee, ‘Regulating Prostitution in Nineteenth-Century Kent’, pp. 1-2, 71, 59, Murphy, ‘The Private Lives of Public Women’, pp. 26, 30. See also Helena Wojtczak, ‘Prostitution in Victorian Hastings’, www.victorianweb.org/gender/wojtczak/pros.html [accessed 29 April 2008].

¹³⁰ Slater, ‘Prostitutes and Popular History’, p. 28.

¹³¹ Eleanor Gordon and Gwyneth Nair, *Murder and Morality in Victorian Britain: The Story of Madeline Smith* (Manchester, 2009), p. 128.

has not been forthcoming. It is true that journalists drew heavily on the tropes of the period but, as Fingard found in the Canadian court columns, they also displayed objectivity.¹³² The caution with which Dundee's journalists reported on trials postponed while further enquires were made about the offender's background presumably can be ascribed to Rowbotham and Stevenson's finding that Victorian crime reporting was controlled largely by legal professionals seeking to earn extra income.¹³³

Undoubtedly the impressions we gain from Dundee's police court reports counterbalance the difficulties in their investigation. Vic Gatrell warns that there can be no study of crime without the exploration of attitudes towards crime, and in this thesis we shall turn the newspapers' reflection of multiple cultural constructions to our advantage by using it to glean key attitudes surrounding drunks, prostitutes and petty thieves.¹³⁴ And aside from providing a fascinating and important opportunity to increase our knowledge of female criminality, by citing press descriptions, we also capture a flavour of Dundee that, David Dorward observes, is often lacking in academic histories of the city. We discover too so much more about the Scottish working classes than simply how they were regulated. Observations of their battle with poverty and squalor, of family life and of tenement culture are amongst the many dividends to be had from reading about the daily interactions of drunks and thieves

¹³² Fingard, *The Dark Side of Life*, p. 10.

¹³³ Rowbotham and Stevenson, 'Causing a Sensation: Media and Legal Representations of Bad Behaviour', in *Behaving Badly Social Panic and Moral Outrage*, p. 42.

¹³⁴ V A C Gatrell, 'Crime, Authority and the Policeman-State', in John Muncie, Eugene McLauchlin, and Mary Langan, eds, *Criminological Perspectives: A Reader* (London, 1998), p. 383.

with the criminal justice system.¹³⁵ The final justification for using the published court reports is that they help shed light on the highly problematic police statistics that are discussed shortly.

At this point it is necessary to say a little more about how the newspaper sources are analysed. Knowing the challenges of determining the intention and prejudices behind the published court reports, conclusions are drawn on the basis of the long-term patterns identified by an extensive reading of the court columns. The picture of female criminality is gleaned from Dundee's Tory *Weekly News* and *Courier*, the Liberal *Advertiser* as well as the distinctly left wing, working-class *People's Journal*.¹³⁶ Each capture courtroom proceedings, but *The Weekly News* was favoured for the bulk of the research because of the convenience of access and the legibility of the microfilm copy.¹³⁷ It was only latterly that the digitization of *The Courier* and *The Scotsman* made it easier to follow the criminal careers of some of the city's most notorious offenders and to track the national debates surrounding women like them.

In order to identify patterns of criminality and prosecutions over the sixty-year period of this thesis *The Weekly News* newspaper crime reports were sampled in their entirety every five years. There was, however, deviation from this formulaic approach in order to ascertain the impact, if any, of economic cycles and war on crime and its

¹³⁵ David Dorward, *Dundee: Names, People and Places* (Edinburgh, 1998) p. 1.

¹³⁶ Since less than 10% of Dundee's population was middle class *The People's Journal* was used to understand something of respectable working-class attitudes. Gordon Snell, *The Lengs: Dundee's Other Publishing Dynasty* (The Tay Valley Family History Society, 2009), Chris Whatley, ed, *The Remaking of Juteopolis* (Dundee, 1992), p. 81, and Walker, *Juteopolis*, p. 230.

¹³⁷ Only *The Advertiser* and *The Weekly News* are available on microfilm, other papers are collated in large, fragile and heavy volumes.

representation.¹³⁸ Collecting data from *The People's Journal* was less organised. The aim was to generate a sample of the attitudes of the respectable working class and so the weekly 'Bellman's Budget' columns were scanned for comments on female drinking and disorder. A couple of its cartoons are included later with the permission of Dundee's Local History Centre. Later reference will also be made to the city's most notorious female offenders. No single method encapsulates how these women were identified. Archivists had already made a file of cuttings on Margaret Gow and *The Courier* and *Scotsman* databases were used to amass even more. It was the frequency with which the name 'Duff or Quinn' appeared on the microfilm that drew my attention to the notoriety of this family and led to the fruitful research of the census. As for Mary Anne Stewart, it was the trial headlines that highlighted that she was another of the women behind the recidivism statistics discussed at length in the chapters.

It is to the quantitative methods underpinning this thesis that we now turn.

1.2 c) Police Statistics: 'Abysmally Deficient and Wretchedly Ambiguous'

Chairman Colonel McHardy [of the Scottish Commission on Habitual Offending]: I want to test the accuracy of the [soliciting] returns ... I repeat the question – may I rely upon these statistics which you handed in of 1893 as quite correct?
[Dundee's Chief Constable] Dewar: absolutely.¹³⁹

The significance of Chairman McHardy's question is that it reflects the widespread nineteenth-century suspicion of the fallibility of the crime statistics.¹⁴⁰

¹³⁸ Throughout the programme of research the high court and police court data was recorded on Excel data tables, and for the judicial statistics graphs and tables were constructed using Excel worksheets.

¹³⁹ *RHO*, 12,862. On Colonel McHardy, who was also chair of the Scottish Prison Commission see Smitt, 'Colonel A B McHardy: The Transformation of Penalty in Scotland 1885–1909', *Scottish Economic and Social History*, 9 (1989), 38–54.

Chief Constable Dewar's unequivocal response is surprising given that he certainly knew that soliciting often went undetected and unpunished in Dundee and, as we shall see in due course, the figures he submitted differed markedly from those of previous years. Indeed, according to his Liverpool counterpart all quantitative accounts of prostitution were 'utterly *worthless*'.¹⁴¹ The passage of time has only increased the unreliability of the crime statistics: why then do historians return time and time again to see what they have to say? The answer is that although they are well aware that the figures are not accurate, most scholars are unconvinced by the argument that they are wholly inaccurate.

What do the police statistics record? This is the major debate in crime historiography. The value that is bestowed on the quantitative evidence and the purpose for which it is employed lies behind Christopher Williams classification of crime historians as positive, pessimist and interactive.¹⁴² There are few in the first camp that treat crime as an objective social fact and believe that the ratio between recorded and actual criminality was largely constant. The so-called pessimists emphatically take the view that the statistics are 'abysmally deficient ... wretchedly ambiguous' and thoroughly unreliable in this task.¹⁴³ They have seized upon the sociologists' warning that 'there are no criminal facts only criminal judgements'. Hence, there can be no history of

¹⁴⁰ E J Urwick, *Studies of Boy Life in Our Cities* (London, 1904, reprinted 1980), p. 233, Macilwee, *The Liverpool Underworld*, p. xviii.

¹⁴¹ Howell, *Geographies of Regulation*, p. 94. Similarly Arthur Sherwell, *The Drink Peril in Scotland* (Edinburgh, 1903), p. 13.

¹⁴² Chris A Williams, 'Counting Crimes or Counting People: Some Implications of Mid-Nineteenth Century British Police Returns', *Crime, History and Societies*, 4 (2000), pp. 77-93.

¹⁴³ Sangster, 'Pardon Tales', pp. 17-18. For a helpful summary see V Bailey, 'Bibliographical Essay: Crime, Criminal Justice and Authority in England', *Bulletin of the Society for the Study of Labour History*, 40 (1980), p. 36.

criminality separate from the history of law enforcement. It is an argument that certainly demands attention.¹⁴⁴

Official crime rates are constructed during complex and often hidden processes influenced by extralegal factors, which begin when the police decide whether or not to make an arrest, and definitions of “crime” not only change over time but also differ according to the observer’s perspective.¹⁴⁵ Critics of the historical statistics are quick to point out the infamous ‘dark figure’: the fact that huge amounts of crime was unrecorded and no record was kept of potential arrests.¹⁴⁶ Consequently the official figures merely refer to the defendants taken into police custody and brought before the courts, so that this represents only the ‘tip of the iceberg’.¹⁴⁷ Because selective decision making, in turn, determines the outcome of the prosecution, the conviction and ultimately the nature of sentence, Danielle Laberge argues that we should speak of the “criminalized”, rather than the “criminal”, and similarly distinguish between ‘the suspected, the prosecuted and the sentenced criminalities’.¹⁴⁸ For Howard Taylor the historical resonance of the judicial statistics is distorted further by deliberate police manipulation during the period of this study. And for him the police statistics are more about the impact of ‘supply-side’ factors—policing budgets, police numbers,

¹⁴⁴ R A Nye, ‘Crime in Modern Societies: Some Research Strategies for Historians’, *Journal of Social History*, 11 (1978), p. 492, Wiener, *Reconstructing The Criminal*, p. 7.

¹⁴⁵ Howell, *Geographies of Regulation*, p. 86.

¹⁴⁶ Macilwee, *The Liverpool Underworld*, p. xviii, R S Sindall, ‘The Criminal Statistics of Nineteenth-Century Cities: A New Approach’, *Urban History Year Book*, 13 (1986), p. 32, Dodge ‘*Whores and Thieves*’, p. 72, Boritch, *Fallen Women*, p. 15.

¹⁴⁷ Frances Heidensohn, *Women and Crime* (London, 1996), p. 93.

¹⁴⁸ Dodge citing Danielle Laberge, ‘Women’s Criminality, Criminal Women, Criminalized Women? Questions in and for a Feminist Perspective’, *Journal of Human Justice*, 2 (1991) 37-56: ‘*Whores and Thieves*’, pp. 79, 68, 3, 22, 64.

legislative change, and political priorities—on *the prosecution of crime* than they are about crime itself.¹⁴⁹

Given that pessimist historians recognise the relevance of the statistics to the study of the police response to crime, they would probably not quarrel with the methodology in Chapter 5 below.¹⁵⁰ Here the quantitative evidence is deciphered in order to catch a glimpse of the activities of Dundee's criminal justice system and to profile the perceptions of criminality in relation to the city's female recidivist. In Chapters 2 and 3, on the other hand, the 'known to the police' statistics are used to extract rough patterns of the most prevalent female crimes and to characterize the city's typical female offender. Because this occurs within a context recognising that a chain of legal and social process led to the construction of the evidence the methodology in Chapters 2 and 3 would, presumably, be categorized by Chris Williams as interactive.

The judicial figures are 'not a unity, to be accepted or rejected as a whole', Williams observes.¹⁵¹ Indeed, the majority of crime and legal historians take the (interactionist) position that the statistics, created by a selective and discriminatory criminal justice system, are a dangerous indulgence but that the circumspect analysis of carefully selected figures, when combined with the investigation of a wide range of qualitative

¹⁴⁹ Howard Taylor, 'Rationing Crime: The Political Economy of Criminal Statistics Since the 1850s', *The Economic History Review*, 51 (1998), 569-590 and 'The Politics of the Rising Crime Statistics of England and Wales 1914-1960', *Crime, History and Societies*, 2 (1998), 5-28.

¹⁵⁰ Boritch, 'A Century of Crime in Toronto', p. 571, Tom Williamson, 'Policing a Myth, Managing an Illusion: Victorian and Contemporary Crime Recording', in Rowbotham and Stevenson, eds, *Behaving Badly Social Panic*, p. 57, Clive Emsley, 'The History of Crime and Crime Control Institutions c 1770- c 1945 in Britain', in Mike Maguire, Rod Morgan, and Robert Reiner, *The Oxford Handbook of Criminology* (Oxford, 1994) p. 151.

¹⁵¹ Williams, 'Counting Crimes or Counting People', p. 79.

evidence, can, in Macilwee's words, provide a 'rough index to some complex social problems and related criminal activities'.¹⁵²

Crime and legal historians have justified their willingness to engage with the statistics in their riposte to the pessimists' claims. They suggest that the theory that the police consciously manipulated the crime statistics does not allow for the complexities of the decentralized and disaggregated character of the nineteenth-century criminal justice system.¹⁵³ Barry Godfrey tackles the impact of supply-side factors and emphasizes that there are no meaningful parallels to be drawn between the budgetary pressures on modern and nineteenth-century police forces.¹⁵⁴ Hay, in his defence of the eighteenth-century judicial statistics, which thwart the historian even more than their Victorian counterparts, criticizes the pessimist view as anachronistic and indiscriminate. He rejects the idea that the only purpose to which the statistics can rightly be employed is in unpicking the criminal justice apparatus. For him to study "control" in isolation is as futile as making enquiries of "crime" independently of the law. In fact the data,

¹⁵² For the most recent (interactionist) discussion on the use of criminal statistics by a crime historian see the chapter 'Ghastly Statistics – a Word of Warning' in Macilwee, *The Liverpool Underworld*, pp. xviii-xx. For a legal historian's view see Stephen Banks 'Review of Murder Trials in Ireland,' *Journal of Legal History* 32 (2011), p. 345. Also R A Carr-Hill and N H Stern, *Crime, the Police and Criminal Statistics: An Analysis of Official Statistics for England and Wales Using Econometric Methods* (London, 1979), p. 324 and John I Kitsuse and Aaron V Cicourel, 'A Note on the Uses of Official Statistics', *Social Problems*, 11 (1963), pp. 134.

¹⁵³ Clive Emsley, 'Crime and Punishment: 10 Years of Research (1) Filling In, Adding Up, Moving On: Criminal Justice History in Contemporary Britain', *Crime, History and Societies*, 9 (2005), p. 126.

¹⁵⁴ Barry Godfrey, 'Changing Prosecution Practices and Their Impact on Crime Figures, 1857–1940', *British Journal of Criminology*, 48 (2008), p. 179. Several crime historians have looked at the way crime rates have been affected by changes in policing and police organisation. For example: Monkkonen, *Police in Urban America 1860–1920*, Boritch and Hagan, 'Crime and the Changing Forms of Class Control. Modern research on the effect of supply-side factors on arrest rates includes: Herbert Jacob and Michael J Rich, 'The Effects of the Police on Crime: A Second Look', *Law and Society Review*, 15 (1981), 109-22.

captured in the police returns, ‘must be the net result of both the behaviour of those subject to the law and those controlling it’.¹⁵⁵ Indeed, in keeping with this view in Chapters 2 and 3 changes in Dundee’s crime figures are charted alongside developments in the supply-side factors. The approach is illustrated more fully in Appendix 1.1.

Having discussed the debate surrounding the worth of the police statistics to crime history it is necessary also to highlight some of the difficulties utilizing germane local data. Confirming Jones’ view, that what survives in the police archives are ‘the tidied records of bureaucracy’, in Dundee neither police diaries nor officers’ charge sheets have been located.¹⁵⁶ We do though benefit from the ‘inebriate blacklist’ collated under the Inebriate Act 1899 (with photographs and descriptions of offenders), from an essay written by Constable Dunn, in response to a competition (on the causes of offending and its treatment), and most especially from the annual crime reports.¹⁵⁷ Dundee’s superintendent had been writing an annual commentary, published in the city, before 1865 and his successors would continue to do so. Throughout the Victorian era the annual reports contain multiple tables on all aspects of petty crime: from the age and occupation of the known offender to Sabbath drinking and chimney fires and seasonal peaks and troughs in arrest rates. However a mixture of problems hinders their analysis. Firstly, we have to define the offender categories ‘No Trade’

¹⁵⁵ Douglas Hay, ‘War, Dearth and Theft in the Eighteenth Century: The Record of the English Courts’, *Past and Present*, 95 (1982), p. 158.

¹⁵⁶ D J V Jones, ‘The New Police, Crime and People in England and Wales, 1829–1888’, *Transactions of the Royal Historical Society*, 33 (1983), p. 152. It is doubtful such records are held by the city’s police museum or by commercial archives. The former is not open to the public and despite several requests access was not granted during the research period of this project.

¹⁵⁷ *DIR*, Lamb 237(5). The latter is the only record that I have found by a Dundee beat policemen and elsewhere is similarly poorly served, see Englander, ‘Policing the Ghetto: Jewish East London’, p. 35.

and ‘Mill Worker’ for ourselves. Secondly, several changes to the returns have the effect of reducing the available data. Consequentially some of the most interesting statistical series are disappointingly short.

Still, exasperation with the brevity of the chief constable’s reports published from the turn of the century may well cause us to view the inconsistencies in the Victorian tables in an altogether more forgiving light. Just as with the newspapers, as the decades pass, the value of the chief constable’s reports to this study decreases. From 1904 Dundee’s statistics on petty criminality, no longer published locally, are included within Scottish reports without reference to the gender of the defendant. It is for this reason that *The Reports for Prison Commissions for Scotland* are scrutinized for insights of Dundonian female criminality for the years 1906–1925. In fact the prison statistics are available in one form or another over the sixty-year period, and like the local police returns were investigated in the preliminary stages of the research.¹⁵⁸ Each provided a vague impression of the nature of female criminality in

¹⁵⁸ The research involved numerous archives. The majority of annual chief constable reports, referred to here as *PoR*, were available at Dundee’s Local History Centre (DLHC) and the reports missing from this collection were generally located at Dundee City Archives (DCA). However, as is explained in the text, their detail varies considerably over the six decades of the research. There are figures on habitual offending to be had locally for the duration of the period, with the most valuable being those gathered by Chief Constable Dewar between 1876 and 1904. Summary tables give a complete picture of the offences of ‘drunkenness’ and ‘assault, [and] breach of the peace’: *PoR*, 1902, 1923, 1938. Unfortunately there are many gaps in the importuning figures (returns have not been located for 1905–1923). From 1904, when Dundee’s annual reports are of limited value, *The Dundee Year Book’s* (*DYB*) tabulated statements of crime are utilized. In addition I turn to the *Judicial Statistics of Scotland* (*JSS*), held at the National Library of Scotland, to make up for the failings in the local records. And because the original Dundee Prison records were destroyed in the 1950s (Dundee Prison closed in 1927) information on the women incarcerated for petty crimes is gleaned from the annual reports of the Prison Commissioners for Scotland, held at the National Library in Edinburgh (and now online). They are referred to here as *PisR* and *PR*, reflecting the fact that these parliamentary papers changed their name and format in the period of this study.

the city that was, in time, reinforced and developed by a wealth of local and national sources, including oral histories, poetry, photographs and paintings which unfortunately there is insufficient space to do justice in this project.¹⁵⁹ Instead, priority is given to parliamentary papers, social explorers' reports, criminological literature and, as has been explained, the press.

1.2 d) Mary Lily Walker: Dundee's Own Charles Booth

Combining statistical evidence, alongside the eyewitness testimony of elite commentators and multiple jailbirds, the 1894 *Report from the Departmental Committee on Habitual Offenders...* is a principal focus in the chapters to come. Similarly, Dundee's 150 page Social Union Report (1904) and Dr Lennox's parallel study of the city's working-class conditions are in the foreground. Neither discriminates between the deserving and undeserving poor. It seems that Lennox, a lecturer of forensic medicine at the city's University College, had no cause to do so. His sights (it seems) were on a PhD from the University of St Andrews (the thesis was never submitted). Lennox was unquestionably an experienced witness to the effects of living barely above the subsistence level. He administered to the sick in the slums of Lochee and as the local army recruitment officer he examined the recruits deemed unfit for the Boer War.¹⁶⁰ The Union report told 'of employment and its

¹⁵⁹ The study draws heavily on Dundee's Lamb Collection. It is described as 'one of the largest and most varied collections of local history materials in Scotland'. Alexander Crawford Lamb (1843–1897) left a legacy of over 450 boxes of ephemera and archivists have been adding to it ever since it was donated to the city (approximately 1900): <http://sites.scan.ac.uk/lamb/main.htm> [last accessed 2 April 2012]. I am grateful to Eileen Moran and Deirdre Sweeney of Dundee's Local History Centre for drawing my attention to the many documents on crime and policing in the Lamb archive and for sharing their knowledge on countless subjects related to the city's social history.

¹⁶⁰ Information is scarce on Lennox at the University of St Andrews.

vicissitudes, of wages and expenditure and of diet; of overcrowding, of the lack of sanitation and the consequences thereof'.¹⁶¹ Probably the reason why the descriptions written by the four female sanitary inspectors are not laced with subjective comment is that Mary Lily Walker—Dundee's own Charles Booth and apostle of London's pioneering social reformer Octavia Hill—directed their research. And surely it is also significant that Walker had consulted Seebohm Rowntree for advice when planning the Union's research.¹⁶²

In bringing to life Dundee's female offenders, the exhausting struggles of generations of working-class men and women to survive cannot be avoided. In Chapter 2, the study of social-economic conditions in the six decades of the research highlights the connections between poverty and crime. The evidence suggests that women drank to escape the wretchedness and monotony of the slums and too often the brutality of their husbands. It is in Chapter 2 that the first attempts are made to pinpoint attitudes toward women's drinking. And in Chapter 2 we also seek to determine to what extent attitudes shifted over time in line with patterns of criminality. As has already been mentioned, the purpose of Chapter 3 is to catch a glimpse of the city's typical female offender from the surviving sources. The principal aggregate characteristics to be explored are those of the underclass, and this sets the scene for the descriptions of hunger, brutality and insecurity in the lives of the women most familiar to Dundee's magistrates.

¹⁶¹ Thompson, *Fifty Years Ago and Now*, p. 10.

¹⁶² Walker, *Juteopolis*, p. 92. Mary Lily Walker launched the first respite restaurant for nursing mothers in Britain in an attempt to encourage breastfeeding, and inaugurated the first school for Crippled Children, The Dundee Baby Clinic and the first Infant Hospital in Scotland: Watson, *Dundee*, p. 156.

1.3 Breaking Down the Problem into Manageable Chunks

Chapters 2 and 3 are organised to answer a series of clearly defined questions about crime in Dundee: what offences did the city's female offenders typically commit? Was there a change in female criminality over the sixty years studied? What proportion of the female community was apprehended for petty crime? What were the leading causes of crime in the city? Then we turn to the sources to determine who was the typical female offender – how old was she, and what was her occupation? Once the profile of the women most likely to be brought before the police court has been documented the crime sources themselves determine the structure of the dissertation. This is because the local records reveal a surprising and perplexing anomaly that demands close examination: that men were most often convicted of crime but the serious recidivists in the period were women. Thus, in Chapter 4 our attention shifts from what the sources can tell us about the city's most *common* female offenders to the rather more difficult task of investigating the recidivist women *persistently* before the courts. It is in the analysis of recidivist women that the dissertation makes the most significant contribution to crime history.

Chapter 4 will set out the evidence that the majority of offenders entrenched in Dundee's Victorian and Edwardian criminal justice system were women, and will survey the extent to which that pattern is documented in archives throughout Britain and North America. As historians have neglected recidivism, it is necessary to turn to modern sociology for guidance in interpreting the local primary sources. We will discuss labelling theory, the feminist double-deviance premise and the concept of the moral panic, as these leading sociological theories encourage us to consider that

discrimination, by the criminal justice system, can account for the gendered patterns in Dundee's recidivism statistics. Because, as we have seen, scholars are convinced that the Victorian courts and constabulary were influenced by misogynist criminological literature, Chapter 4 will define the leading contemporary theories about female criminality in order to facilitate our assessment of its influence on Dundee's criminal justice practitioners.

It is Chapter 5 that tackles the key question: to what extent were Dundee's criminal justice practitioners responsible for the overrepresentation of women in the city's recidivism records? It will be shown that in the six decades covered by this research there were significant changes in criminal justice policy, but the available records suggest that it would be unreasonable to attribute more than a small part of the enormous difference between the position of male and female recidivists, in the judicial figures, to factors of social control. The findings also indicate that contemporary criminology had a minimal impact on the experience of the women entrenched in the criminal justice system.

In Chapter 6 the local evidence contradicts the leading histories on a number of points. Rather than sharing the views of criminologists, Dundee's magistrates, police and press were often suspicious of prison science. It will be shown that too much has been made, by British and North American feminist scholars, of the impact of misogynist theorizing on the experience of deviant women in the late nineteenth and twentieth century, and that the existing histories provide an overly narrow definition of Victorian and Edwardian criminology.

As far as the vexed question of why women dominated Dundee's recidivist records is concerned, Chapter 6 will combine insights from contemporary and modern research in order to tease out several alternative interpretations of the crime statistics. We will explore the contemporary view that once a woman had served time in prison her social and economic difficulties generally escalated beyond those of her male counterpart. What this means, of course, is that there may be important patterns between Victorian offenders and their modern-day counterparts. This is a theme that runs through the dissertation and justifies its interdisciplinary approach.

Chapter 2

Female Crime in ‘One of the Hardest Boozing Cities in the Cosmos’

Their duties are constant and various, often very unpleasant, and sometimes not free from danger. They have to grapple with drunkards, thieves, and the most abandoned; and it is their daily province to penetrate those dens of iniquity, and abodes of misery, filth, contagion, and disease which so much abound throughout the burgh.¹⁶³

2.0 Introduction

This was how Dundee’s constables and sergeants described their role in 1871. Since the extract is part of a petition to the city’s Police Committee, asking for more pay and improved conditions, we might suspect that it would contain a degree of exaggeration. In fact, from the accounts of independent observers preserved in the Dundee archives we discover that the police did deal with drunkenness and theft on a daily basis and their interactions with the public were often dangerous. What is more, a myriad of documents indicate that the officers’ portrayal of the city’s tenement slums as ‘abodes of misery’ is apt. The petition does not specifically mention the difficulties presented by women, but since it does not draw particular attention to men either it appears in tune with other sources that express the parallels between male and female offending. It is the purpose of this chapter to identify, define and contextualize the typical female crimes that exercised Dundee’s police, and to examine if and why female criminality changed between 1865–1925. Our aim is also to demonstrate that poverty and the development of the police role provides the background to the period. In all these tasks the analysis lays an essential foundation for the chapters to come when we will delve further into the crime archives.

¹⁶³ *WN*, 16 September 1871.

The judicial figures have their problems, but of one thing we can be sure and that is they provide a good starting point for the study of crime.¹⁶⁴ For this reason Section 2.1 begins by unpicking Dundee's police statistics for the years 1878–1902 in order to gain a glimpse of the most prevalent offences. These judicial records provide a more or less consistent series and are the most reliable quantitative data on the nature of female criminality in the city that survives. They tell us that female offenders (casual and repeat) were typically charged with drunkenness, breaching the peace and theft. In Section 2.2 we trawl the archives for evidence that these offences continued to define female criminality for the six decades of the research and we will then ask what proportion of the female population were involved in crime. Both are difficult questions to answer because of the problems comparing the often non-equivalent quantitative evidence gathered by the various criminal justice authorities. Nevertheless it will be shown that despite the changes in record keeping and alterations in how criminality was perceived, drunkenness, breach of the peace and petty theft were probably the three leading female offences for the period of this study.

In Section 2.4 attention will shift to contextualizing the causes of crime and in doing so the central role of alcohol will be underscored. Once the strength of the city's drink culture has been established it will be possible to tackle some of the key questions concerning female drinking. Did alcohol present Scotland with more social problems

¹⁶⁴ Carrabine, *Criminology*, p. 132.

than England and Wales, as previous studies suggest?¹⁶⁵ How did the city's women obtain alcohol at a time when, we are led to believe, the pub was a male preserve? Dundee's social history dominates Section 2.5 and here we discover why whisky had such an appeal. Expanding the portrait provided in Chapter 1, it will be explained that the city's reliance on jute manufacture had disastrous consequences for wages and living conditions were wretched. As will be clear by the end of this chapter, Dundee had the types of crime it deserved.

2.1 Identifying and Defining the Typical Female Offences 1878–1902

Between the years 1878–1902, when the most reliable evidence is available, Dundee's female offenders, casual and repeat offenders alike, were typically charged with the summary, anti-social offences of drunkenness, breaching the peace and with petty theft.¹⁶⁶ As is shown by the data provided in Appendix 2.1 theft was in third place; always a long way behind the public order crimes.¹⁶⁷ We know that a weakness of the judicial statistics is that they record the offences that the police concentrated on. Because petty theft is consistently in third place in the data, when (as elsewhere) the authorities considered acquisitive offences the most serious crimes it seems that thieves were not the subject of police campaigns. This in turn indicates the raw

¹⁶⁵ J D Kemp, 'Drink and the Labour Movement in Early 20th Century Scotland with Particular Reference to Edwin Scrymgeour and the Scottish Prohibition Party', (unpublished PhD thesis, University of Dundee, 2001), p. 46.

¹⁶⁶ The trivial offences might also be labelled as social-moralistic.

¹⁶⁷ At the turn of the century crimes against property accounted for 7.5% of the Scottish total: citing *Judicial Review*, XIV (1902), Knox and McKinlay, 'Crime, Protest and Policing in Nineteenth-Century Scotland', p. 204.

figures provide a broadly accurate snapshot of the hierarchy of the most prevalent female crimes.¹⁶⁸

In England and Wales simple larceny is usually presented as the leading female offence in this period and beyond.¹⁶⁹ Later we will consider whether the lower ranking of drunkenness in the English records is because the effects of female intoxication in the south were less startling. In the meantime it is important to establish that the hierarchy of petty crimes is not the only anomaly to be found in the Dundee archives.

The previous studies would lead us to expect that the offence of soliciting or importuning, that is '[a]nnoying male persons for the purpose of prostitution',¹⁷⁰ would be prominent in the police records since they have strongly associated female criminality with the vice trade.¹⁷¹ In Dundee the importuning figures contribute little to the aggregate returns and we would be tempted to skip over them were we unaware that, firstly, as will be explained in the next chapter, prostitution was a fact of life in the port city and secondly, that in Scotland, after drunkenness, women were most

¹⁶⁸ On property crimes treated more seriously than inter-personal offences: Smith, *Oxford History of Laws*, p. 124, Hughes, 'The 'Non-Criminal' Class', p. 35.

¹⁶⁹ W D Morrison, *Crime and its Causes* (London, 1891), p. 159, Pamela Cox, *Gender, Justice and Welfare: Bad Girls in Britain, 1900–1950* (Basingstoke, 2003), pp. 26, 28. The picture in North America was similar: Monkkonen, *Police in Urban America* p. 103, Dodge, 'Whores and Thieves', p. 92. But Dundee is not unique: Zedner finds the largest single category of offence for both sexes in England was drunkenness (1857–1890): *Women, Crime and Custody*, p. 34. Similarly Sarah Wise, *The Blackest Streets: The Life and Death of a Victorian Slum* (London, 2008), pp. 99–100, Macilwee, *The Liverpool Underworld*, p. 51.

¹⁷⁰ Selling sex was not illegal, the behaviours associated with it, such as soliciting and brothel keeping were.

¹⁷¹ Taylor, *Hooligans, Harlots and Hangmen*, p. 103, Lucia Zedner, 'Women, Crime, and Penal Responses: A Historical Account', in Michael Tonry, ed, *Crime and Justice a Review of Research*, Volume 14 (London, 1991), p. 318.

frequently imprisoned for importuning.¹⁷² As we know, crime statistics are records of administrative factors, and the most likely reason for Dundee's low importuning figures is that prostitutes were charged with being drunk and disorderly instead of the — more tricky to prove—crime of soliciting.¹⁷³ And so it is to the drunkenness offences that we first turn.

2.1 a) 'Noo, I Ken Auld Janet Cook; / She Drinks Jist Like a Jook'¹⁷⁴

Drunkenness, or 'drunk and incapable' as it was also known, was either the most, or second most, prevalent female offence in Dundee in the years 1878–1902, when comparative statistics are available.¹⁷⁵ In 1902 815 women were arrested for being intoxicated and we can be sure that the dark figure looms large over these figures. Anyone found 'in a public place intoxicated ... not under the care and protection of some suitable person' was technically guilty.¹⁷⁶ Crucially the accused were unable to take care of themselves. Thus being drunk in public would not automatically lead to a charge. As a contemporary observed, in Scotland, a conviction for drunkenness meant 'drunk and incapable and got no friends'.¹⁷⁷ In Dundee, the police very often left the tipsy to stagger home, those too intoxicated to stand were transported to the station in

¹⁷² 28th *PiSR* which referred to 1867.

¹⁷³ The existing studies provide this was a common police tactic when the necessary proof to support a conviction was difficult to supply: Fingard, *The Dark Side of Life*, pp. 20, 43 105, Zedner, 'Women, Crime, and Penal Responses', p. 318, Monkkonen, 'A Disorderly People', p. 542. In Calgary 1900–1914, on the other hand, the charges of prostitution and vagrancy were 'almost interchangeable': David Bright, 'Loafers Are Not Going to Subsist Upon Public Credulence: Vagrancy and the Law in Calgary, 1900-1914', *Labour / Le Travail*, 36 (1995), p. 39.

¹⁷⁴ Lamb 12(a).

¹⁷⁵ *PoR*, 1876–1904. The same pattern is identified in Greenock and Galway Prisons: Dobash and McLaughlin, 'The Punishment of Women', p. 72, Curtin, 'Female Prisoners in Galway', p. 178.

¹⁷⁶ The Dundee Police Act 1892, The Public Houses Amendment Act 1896.

¹⁷⁷ Kemp, 'Drink and the Labour Movement', p. 34.

a specially fashioned wheelbarrow. In this way women found lying at the foot of tenement stairs, slumped against walls and in roadside ditches were charged with drunkenness.¹⁷⁸ Unsurprisingly some complained to the magistrate that had the police given them more time they would have got up.¹⁷⁹ Still, if they had asked the officer to be patient they may have landed up in court anyway, albeit charged with breaching the peace or disorderly conduct.

2.1 b) ‘Assault, Breach of the Peace, [and] Disorderly Conduct’

One Wednesday afternoon in June 1881 a crowd of between two and three hundred people were attracted by the ‘uproar’ of four drunks. The culprits, three of them women, appeared in court the next day charged with breaching the peace.¹⁸⁰

It was commonplace for Dundee’s women to be arrested for ‘assault, breach of the peace, disorderly conduct’, to give the offence its full title. Although the police annual returns simply provide the aggregate figure, as the example illustrates, some defendants were charged with separate components of the offence. In fact, it was also common for women to be charged with a combination of two or three of its elements. Mary O’Brien, for example, was convicted of breaching the peace at the door of a fireman’s house and at the same time of assaulting Agnes McCillan, by ‘striking her a blow with her fist on the head.’¹⁸¹

¹⁷⁸ The press police court columns provide a multitude of examples: *WN*, 21 February 1880, 19 July 1879.

¹⁷⁹ *WN*, 17 July 1880, 24 July 1875, *DA*, 4 April 1876.

¹⁸⁰ *C*, 1 July 1881.

¹⁸¹ *WN*, 11 March 1893.

In the contemporary legal texts the terms breach of the peace, disorderly conduct, riotous behaviour and affray were synonymous. Any one of these phrases could be applied ‘when the accused [had] annoyed and disturbed the lieges, and [had] broken the peace of the community’.¹⁸² As Monkkonen recognises, we cannot know the precise local behaviour standards for disorderly behaviour nor the varying perceptions of what constituted a breach of the peace.¹⁸³ What is clear, nonetheless, is that the causes of the trouble were wide ranging. Cursing and swearing, whether it was outside, at the door of a suspected shebeen, at the door of your own house, or within the passage of a house, brought imprisonment with the option of a fine. Husbands and wives who quarrelled were brought to the bar for disturbing their neighbours, as were the parties whose singing and dancing in the small hours had the same effect. It was acknowledged in 1925 that had the mill whistle not been a customary feature of Dundonian life, manufacturers would have been prosecuted for the disturbance to slumbers caused by the early morning calls to work.¹⁸⁴

‘Disorderly processions in the street’ were included within the legal definition of a breach of the peace. Since strikes were common throughout the period, does this explain the dominance of the offence of ‘assault, breach of the peace, disorderly conduct’ in the police statistics? What the sources reveal is that strikes, in fact, were responsible for relatively few arrests. It is true that female strikers typically ‘howled

¹⁸² *Greens*, 1896 p. 209.

¹⁸³ Monkkonen, ‘A Disorderly People?’, p. 541.

¹⁸⁴ Shebeening was the sale of illicit liquor and will be discussed again later in this chapter. The themes listed are common in the Dundee press reports: *C*, 19 January 1885, *WN*, 28 March 1885, 17 July 1875, 13 March 1876, 11 December 1888, 21 August 1886, 6 March 1875, *PJ*, 3 October 1925.

and hooted' during their visits to the Cowgate, Dundee's business centre.¹⁸⁵ As we shall see, they were seldom free from a sense of grievance. Nonetheless, in the strike situation it seems neither shouting nor singing (no matter how bawdy the words), nor pushing and shoving, nor tearing at the clothes of the workers who defied the strike, was deemed by the Dundonian authorities to warrant arrest. In 1885, for example, when some 13,000 operatives were involved in a dispute, the only apparent connection between events in the city and the cases heard in the police court, during the relevant week in September, was the vocabulary employed by *The Courier* when it reported the trial of a 'striking' millworker: a reference to the defendant hitting her neighbour on the head.¹⁸⁶ It is incidents of this sort that form the fabric of the city's assault records.

An assault was defined as a 'criminal attack on the person'. Formally it was not necessary that an injury be inflicted; '[a]n attack by spitting or throwing dirt' and 'threatening gestures producing alarm or injury' sufficed.¹⁸⁷ But in practice it seems that actual contact was required, whether it be with fists or the object nearest at hand. The records are peppered with accounts of pokers, plates, earthenware jugs and kettles used as weapons. Women also threw dishwater, and unhappily for one victim, 'nightsoil'. In greatest number, though, are the accounts of women striking their victim (or opponent) on the face with their fists and seizing them by the hair. Consequently they appeared in court sporting black eyes and thick lips – just like their

¹⁸⁵ *WN*, 24 July 1875, *PJ*, 22 April 1916, *DA*, 5 May 1893. The majority of disputes involved fewer than 500 operatives, however in 1892, 1893 and 1899 the number of strikers was between 20,000 and 35,000: Gordon, *Women and the Labour Movement*, p. 41.

¹⁸⁶ *C*, 11 September 1885.

¹⁸⁷ *Greens*, 1896 p. 327.

counterparts throughout Britain.¹⁸⁸ In spite of these injuries the assaults were perceived by the judicial authorities to be minor. When there was ‘an effusion of blood’ the assault was logged separately as a class I offence and is not analysed here. However, ‘assault and robbery’—another serious crime that involved violence—will be alluded to in Chapter 3 because it was strongly associated with prostitute-thieves.

Traditionally researchers paid little attention to female violence. Women, it was believed, fought with tongues.¹⁸⁹ This was not the Dundonian reality for in a typical police court sitting there would be several cases of female pugilism.¹⁹⁰ Recent scholars recognise the capacity of women and girls to be violent. They know that, like men, females used stand-up fights to enhance their status in the community.¹⁹¹ White’s narrative of London’s Campbell Road includes descriptions of women standing toe-to-toe, slugging it out before a crowd.¹⁹² They fought in the same way as Dundee’s mill workers, that is, their fights were by arrangement. According to one court report the defendant ‘protested she would not grudge another fifteen shillings just to have a sound thrashing at her opponent’.¹⁹³ Most often though female fights were spontaneous.

¹⁸⁸ DA, 18 October 1872, WN, 19 October 1872, 17 and 24 July 1875, 13 and 31 July 1880, 11 March 1893. David Reeder, ‘Representations of Metropolis: Descriptions of the Social Environment in *Life and Labour*’, in David Englander and Rosemary O’Day, *Retrieved Riches: Social Investigation in Britain 1840–1914* (Hants, 1995), pp. 331–332.

¹⁸⁹ Walker, *Crime, Gender and Social Order*, pp. 96, 111. Female crime was relatively ignored until the 1960s: Frances Heidensohn, ‘Gender and Crime’ in Britain’, in Mike Maguire, Rod Morgan, and Robert Reiner, *The Oxford Handbook of Criminology* (Oxford, 1994) p. 999.

¹⁹⁰ WN, 19 July 1879.

¹⁹¹ D’Cruze, *Crimes of Outrage*, p. 5. Walker, *Crime, Gender and Social Order*, p. 98 and Macilwee, *The Liverpool Underworld*, pp. 103, 130–132.

¹⁹² Jerry White, *The Worst Street in North London: Campbell Bunk, Islington, Between the Wars* (London, 1986), pp. 96–7.

¹⁹³ WN, 13 May 1893.

Several studies show that there were endless sources of provocation in the noisy and crowded nineteenth and twentieth-century slums. In Dundee too trivial arguments over shared space for hanging washing, for example, could develop into the non-serious fights the police logged as common assaults.¹⁹⁴ But what we must not ignore is that women did not just fight amongst themselves. As elsewhere, women assaulted police constables (when they and theirs were arrested), they assaulted sailors and a minority beat their husbands.¹⁹⁵ Margaret Sinclair Findlay, like countless women, felt the effects of her spouse's temper. What was different about her is that she returned the blow and then proceeded to drag him, by the hair, down the tenement steps.¹⁹⁶

2.1 c) Petty Theft

After drunkenness and 'assault, breach of the peace, [and] disorderly conduct', Dundonian women were most frequently charged with stealing low value items.¹⁹⁷ Simple larceny (petty theft) involved 'the felonious taking away and appropriation of the property of another without his consent'. *Green's Encyclopaedia of Scottish Law* explained it was not a crime to 'take unauthorized use of another man's horse, or bicycle', provided there was 'throughout an intention of returning it'.¹⁹⁸ But Dundee's

¹⁹⁴ *WN*, 19, 24, 25 July 1879, 24 September 1870, *DA*, 4 April 1876. Weaver, *Crimes, Constables and Courts*, p. 238, Pat O'Mara, *The Autobiography of a Liverpool Irish Slummy* (Liverpool, 1933, reprinted 2007), p. 9, D'Cruze, *Crimes of Outrage*, p. 51, White, *The Worst Street in North London*, p. 98.

¹⁹⁵ *DA*, 11 July 1876, *C*, 11 November 1888, Steve Jones, *Capital Punishments: Crime and Prison Conditions in Victorian Times* (Nottingham, 1992), p. 30, Zedner, *Women, Crime and Custody*, p. 35.

¹⁹⁶ *WN*, 17 March 1866.

¹⁹⁷ The vast majority of property stolen was 'considerably under 5/- value', *PoR*, 1908 p. 10, 1917 p. 12.

¹⁹⁸ *Greens*, 1896 pp. 245-246.

judges made a point of disregarding claims that defendants had intended to return items to their rightful owners.¹⁹⁹ Their attitude reflected the seriousness with which the offence, no matter how cheap the plunder, was viewed. Thefts were considered far more serious than both disorderly behaviour and assaults. A theft was all the more troubling when the defendant had broken into rooms *within* a house. Housebreaking, on the other hand, was a separate offence and is not included in this study.

The Dundonian thefts mirrored the petty larcenies historians have found elsewhere. They usually occurred in the familiar working-class locations, in and around the tenements and mills, and they were opportunistic. One need only leave property unattended for a moment for someone to steal it, and in a typical example the victim, who was moving lodgings, left his trunk unattended on the pavement for a moment, only to see three nimble rogues run off with it.²⁰⁰ There are copious examples provided in the press between 1875 and 1905. Historians observe that since the seventeenth century working-class female thieves commonly took trivial, domestic items and the same is true of Dundee in the period.²⁰¹ Week in, week out, women were charged with stealing petticoats, aprons, shirts and shawls from washing-lines and washhouses, of taking sheets from beds and brushes from cellars.²⁰² It is not possible to support Palk's suggestion that these items were stolen since they belonged

¹⁹⁹ JC26/1868/62, JC26/1878/30.

²⁰⁰ *WN*, 30 February 1870, for more opportunist thefts: 30 July 1870, 13 February 1886, 6 March 1875, JC26/1866/1, JC26/1876/70, JC26/1875/20.

²⁰¹ Penelope Lane, 'Work on the Margins: Poor Women in the Informal Economy of Eighteenth and Early Nineteenth-Century Leicestershire', *Midland History*, XXII (1997), p.92, Donnachie, 'The Darker Side', p.11, Godfrey, 'Law, Factory Discipline and 'Theft'', p.57, Steve Jones, *Lancashire Lasses: Their Lives and Crimes* (Nottingham, 2001), p. 56.

²⁰² *WN*, 10, 24, 31 July 1880, *PJ*, 29 January 1876.

to the women's world.²⁰³ Rather, in Dundee, it seems that both sexes plundered domestic goods because they were readily available, relatively easy to carry and straightforward to hide.²⁰⁴ What is more, as we shall see when we address the causes of crime in Section 2.4, it was simple to convert them into cash in order to procure a much-desired drink. But for now it is necessary to provide more details on the fines system.

2. 1 d) 5s or 5 Days: The Option of Imprisonment or a Fine

In Chapter 1 we saw that the police had the power to decide whether to charge a petty offender and take them to the station, or to allow the offender to pay an on-the-spot fine, or a financial pledge to guarantee their appearance before the magistrate. What must be emphasised here is that judges also imposed fines. The law provided that magistrates and sheriffs could give petty offenders the option of paying a fine *in lieu* of serving a (usually short) prison sentence. Dundee's Chief Constable Dewar recorded, in 1894, that out of 75 drunks (47 men and 28 women), in a typical sitting in the police court, fourteen offenders were given the option of a 5s fine or of serving 24 hours imprisonment, an equal number had the choice to serve 5 days or pay 7s 6d, and nine were required to provide 10s 6d or serve 7 days. Another five defendants were awarded 15s or 10 days, and for four defendants the choice was 20s or 14 days, with one offender on the court roll given the option of a 40s fine in lieu of 1 month in prison. The remaining six left the court with an admonishment to behave better in

²⁰³ Palk, *Gender, Crime and Judicial Discretion*, p. 58.

²⁰⁴ The Dundee evidence concurs with Walker's finding of early modern England that women did not have a monopoly on the goods they stole: *Crime, Gender and Social Order*, p. 163.

future.²⁰⁵ Dewar did not record how many paid the fine, but other primary sources suggest that poverty ensured that a very high proportion of petty offenders went to prison.

According to the 1905 Scottish Prison Commissioners' Report, 'most' prison sentences were 'the alternatives for non-payment of [police court] fines'.²⁰⁶ On the basis of Dundee's crime returns, Lennox's calculations, of the same period, revealed that 64 per cent of offenders served terms of imprisonment for drunkenness, and 44 per cent for breach of the peace. He observed that while the fines may not seem heavy, 'in relation to the incomes of the class who commit the majority of these minor offences they are'.²⁰⁷ His research findings, provided below, reveal that as the fine for drunkenness increased the proportion of offenders who paid the financial penalty decreased. Unfortunately none of the fine data located in this study includes information on gender. This will be a notable disadvantage in Chapter 6 when we will try to grasp whether female offenders were more likely than their male counterparts to go to prison.

Table: 2.1 Percentage of Court Fines Paid for the Offence of Drunk and Incapable (c. 1904)

Percentage of fines paid	Fine for drunk and incapable
25 %	5s and under
30%	5s under 10s
36%	Over 10s under 20s
9%	Over 20s and under 40s

From: *Lennox* p. 365

²⁰⁵ *RHO*, 12,787.

²⁰⁶ *PR*, 1905, p. 212.

²⁰⁷ *Lennox*, pp. 365-6.

The offences of drunkenness, ‘assault and breach of the peace’ and petty theft are the offences associated with women in the police statistics gathered between the years 1878–1902. Dr Lennox, the author of a respected account of the city’s poor, in 1905, confirmed that the last three decades of the nineteenth century saw no transformation in offending.²⁰⁸ But what about the rest of the period: do the sources indicate that this pattern of female criminality remains consistent up to 1925? And we also need to determine what proportion of the population was involved in crime. As the next section will explain, these are difficult questions to answer because of numerous problems with the evidence. We must persevere with the historical records because in the chapters to come we will want to be confident about long-term trends and we will need to know the extent of female law breaking.

2.2 Offending into the Inter-War Years

Table 2.2: Females Accused of Drunkenness and ‘Assault, Breach of the Peace [and] Disorderly Conduct’ 1865–1925

Year	Drunkenness	Assault, breach of the peace, disorderly conduct	Total
1865	447	419	866
1870	277	501	778
1875	539	1113	1652
1880	614	1135	1749
1885	428	811	1239
1890	494	1083	1577
1895	511	730	1241
1900	858	811	1669
1905	517	526	1043
1910	576	386	962
1915	928	369	1297
1920	617	297	914
1925	534	292	826

²⁰⁸ Lennox, p. 366.

From: *PoR*, 1894, 1928 (full figures provided in Appendix 2.1)

Table 2.2 shows that recorded female offences peaked between 1875 and 1890. What about the remainder of the period? Were drunkenness, breaches of the peace, assault and petty theft the leading female offences in the years 1865–1875 and did they remain dominant into the inter-war period? The police statistics published by Superintendent McKay from 1865 indicate that they dominated his tenure.²⁰⁹ It is hard to know, however, what was the pattern of criminality after 1902 because, in that year, there was a dramatic reduction in the volume of crime statistics published both in Dundee and at the national level. The petty theft figures were one of the major casualties of the 1902 modification in the recording of offences and unfortunately the Scottish judicial reports, which were intended to provide the data previously published by the individual Scottish constabularies, do not distinguish between male and female offenders. The newspapers only exasperate the difficulty of investigating long-term patterns. As was explained in Chapter 1, by the early twentieth century editors rarely considered everyday petty crime newsworthy. Moreover, the police-court columns—which are essential in the analysis of criminal justice—were defunct before the outbreak of war saw Dundee’s Police Court all but disappear from the historical record. We are also faced with the problems inherent in any crime history.

There are obvious methodological difficulties comparing records gathered over six decades. Trends in criminality are dependent on the time frame considered.²¹⁰

Monkkonen argues that the dominant policing model in North America (and by implication the western criminal justice tradition) from 1860 to 1890 was one of ‘class control’, and that by the end of the century the police were promoting

²⁰⁹ See Appendix 2.1.

²¹⁰ Boritch *Fallen Women*, p. 47.

themselves as fighters of crime, although Boritch and Hagan counter that the class-control model in fact continued.²¹¹ Aside from the debate on the emphasis the police placed on regulating public order, the degree of injury that was required for an assault to be considered *petty* probably narrowed in the new century. Assessing the trends in how public drunkenness was perceived is more challenging. Did the public become less tolerant of drunken disorder? Or did the inter-war generation, seeing themselves as more enlightened and tolerant than their Victorian ancestors, display more liberal attitudes?²¹² These questions must remain unanswered here. What we can say, on the basis of the extant local evidence, is that according to the official records women were still primarily charged with drunkenness, breaching the peace, assault and petty theft into the inter-war years. And mostly they were associated with incidents of public disorder.²¹³

The grounds for believing that theft retained its position in third place in the league table of commonly reported female offences are two-fold. Firstly, the Dundonian police continued to prioritize information on drunkenness and breaches of the peace far and above all other offences. The reason, we may imagine, that the figures for petty property crime and importuning were of little interest to the city's ratepayers is that, reflecting the Victorian years, these were not the charges that brought most women before the magistrates. The data, reprinted above (Figure 1), does show that throughout the period 1865–1925 arrests for public order crimes remained steady,

²¹¹ Monkkonen, *Police in Urban America*, Boritch and Hagan, 'Crime and the Changing Forms of Class Control', pp. 308, 318.

²¹² Gordon and Nair, *Murder and Morality*, pp. 156, 160, 169. For a discussion of how what was considered acceptable behaviour changed over time: Durston, *Victims and Viragos*: p. 215.

²¹³ Interestingly Boritch finds that between the mid nineteenth and late twentieth century there was little change in the types of crime that brought women to the attention of the criminal justice system: *Fallen Women*, p. 46.

whereas there were less than a dozen incidents of female theft committed in 1924–1925. The trend in respect of drunkenness and the offence of ‘assault, breach of the peace and disorderly conduct’ may seem odd. The latter tops the returns in the years 1870 to 1905, whereas 1910–1925 finds drunkenness in first place.²¹⁴ But there is an obvious explanation. In all likelihood the change was down to the fact that behaviour that had been logged by the police as ‘disorderly’ was later tabulated as drunkenness. This is not surprising when they were both drink-related anti-social crimes and by 1905 the offence of ‘drunk and incapable’ had become ‘drunk, incapable, riotous and disorderly conduct, &c’.²¹⁵

A second reason for believing drink and disorder crimes remained common is that there were strong parallels between the national and the local scene, and nationally problems with public order remained to the fore. We should be in no doubt that the characteristics that defined female crime in Victorian Dundee also defined crime in Victorian Scotland. The Prison Commissioner’s Report for 1894, for example, shows that nearly three-quarters of Scottish prison admissions were due to drunkenness, breaches of the peace and petty assaults.²¹⁶ Hence, given the shared background it is significant that in 1923 it was reported that breach of the peace and drunkenness continued to ‘make up more than half of the total number’ of minor crimes in

²¹⁴ *PoR*, 1865, 1900, 1905 shows figures for drunkenness and breach of the peace more or less equal.

²¹⁵ *PJ*, 17 June 1905.

²¹⁶ 28th *PiSR*, 1894–1895 p. 1111, confirmed by Dobash and McLaughlin: ‘The Punishment of Women’, pp. 71–2. Similarly in Calgary between 1900 and 1913 drunkenness and associated offences accounted for two-thirds of all convictions: Bright, ‘Loafers Are Not Going to Subsist Upon Public Credulence’, p. 46.

Scotland.²¹⁷ Had Dundee presented an alternative pattern the judicial commentators would have surely picked up on it in their reports.

Does the theory, promoted by some historians, that after World War I changes in women's social, economic and ideological position were responsible for a general decline in women's crime, apply to Dundee?²¹⁸ We cannot be certain about this,

because the limited data suggests that there was only a very slight reduction.

Nevertheless, it is reasonable to assume that there was a decrease even though no dramatic shift in female criminality is evident from the few surviving prison reports held at the National Archives. They show that in 1865, 563 women were committed to Dundee's gaol, and in 1925 the figure was 431.²¹⁹ Unfortunately there is no indication of the crimes for which the women were imprisoned, but as we have just seen, there is no reason to suspect that there had been a marked shift in the pattern of crime. The 13 per cent decrease in committals to prison can surely be explained by the fact that under The Probation of Offenders Act 1907 judges had discretion not to punish convicted offenders. The Criminal Justice Administration Act 1914 also gave people more time to pay their fine and by the outbreak of war this resulted in a greater collection of fines.²²⁰ We should not, though, ignore the possibility that there was, at the same time, an actual decline in female criminality.²²¹

²¹⁷ *JSS*, 1923, p. 1.

²¹⁸ See Allison Morris and Lorraine Gelsthrope, *Women and Crime Papers Presented to the Cropwood Round-Table Conference December 1980* (Cambridge, 1981), p. 81.

²¹⁹ *PiSR*, 1865, p. 410, *PR* 1925, p. 450.

²²⁰ *S'man*, 16 March 1915.

²²¹ Probation officers were inaugurated in the police courts in 1898. Judges delayed pronouncements of sentence (usually by 6 weeks) during which time the convicted offender would be supervised by a probation officer who submitted reports on their conduct. It was noted that the system was a remarkable success with first-time offenders. See *PoR*, 1915 report on probation p. 10.

In 1894 a police enquiry found that 87 per cent of men and women apprehended for crime were under the influence of liquor. In 1924 the figure was 49 per cent, so the new century might have marked the embryonic stages of a decline in drunkenness that was to culminate in the official figures in the late 1930s.²²² Contemporaries certainly grasped a change in working-class behaviour in Dundee between 1867 and 1912. J. H. Martin, an ex-magistrate, observed that the city had ‘undoubtedly acquired nobler modes of life’ and ‘sweeter manners’.²²³ The historian Barry Godfrey believes that there was in fact a long-term—albeit slow and uneven—national decline in violence, such that the 1900s were less dangerous than the 1880s. Other scholars, echoing the ex-magistrate’s view, explain that the decline was due to broad cultural changes and civilising processes, some of which will be considered at the end of this chapter.²²⁴

Archival sources cannot tell us if Dundee women became less belligerent as the decades passed. But the evidence at hand does indicate that there may have been a discernible change in their behaviour after World War I. The figures for drunkenness and disorder offending were lower than they had been before the hostilities and the

²²² *DYB*, 1895 p. 239, *PoR*, 1924 p. 12. In 1927 Chief Constable Carmichael reported that persons under the influence of liquor committed 43% of crime, by 1936 the figure was 33%: *PoR*, 1927 p.13, 1936 p. 13.

²²³ J H Martin pointed to philanthropic, religious and moral influences and in particular ‘cheap and healthy amusement for the people’ which he said had become ‘abundant’: A W Paton and A H Millar, eds, *Handbook and Guide to Dundee and District, British Association for the Advancement of Science* (Dundee, 1912), p. 32.

²²⁴ Godfrey, ‘Changing Prosecution Practices’, p. 176. Macilwee highlights the growing working-class desire for respectability, their ‘strong internal impulses towards more harmonious interpersonal relations’, the effect of the slum clearance schemes (which made people less likely to seek out the pub for comfort and warmth and broke up the rookeries), compulsory education, the growth of sport and the influence of benefit societies (that disapproved of heavy drinking) as responsible for the decline in crime: *The Liverpool Underworld*, pp. 117, 133. Weiner argues men were under pressure to be less violent: ‘Presidential Address of the North American Conference on British Studies 2003’, *Albion*, 36 (2004), 1-11. Also David J V Jones, *Crime in Nineteenth-Century Wales* (Cardiff, 1992), p. 64.

time occupied by the police court sitting was cut in half.²²⁵ What it is sensible to assume is that increased social control contributed to increased sobriety and consequently a reduction in female offending. Although the police figures themselves provide an inadequate account of the ever-expanding regulation of working-class recreation, by outlining the development of the Dundonian Constabulary we can see how the power of the state grew throughout this period. In becoming more effective in preventing crime it is likely that the police were better able to bring about a general improvement in public order.²²⁶

2.2 a) The Development of Social Control

Under Superintendent Donald Mackay between 1844 and 1876, the morale and discipline within the Dundonian force was extremely poor and there were complaints that disorder in the city went unpunished.²²⁷ In the circumstances of the time such a state of affairs was common.²²⁸ It was on the appointment of Chief Constable Dewar that significant steps towards the professionalisation of the force were taken and in 1876 half the men either resigned or were dismissed. Dewar was responsible for

²²⁵ *PoR*, 1900 p. 9, 1912 p. 13. Supporting the observation that crime decreased over the century is the fact that in Liverpool there was a reduction in the size of the police force: Macilwee, *The Liverpool Underworld*, p. 10. There was no reduction in Dundee but this is not surprising given that, as we shall see in Chapter 5, the Constabulary was under strength.

²²⁶ For a discussion of the relationship between growing police efficiency and the decline in prosecuted violence between 1880–1920 see Godfrey, ‘Changing Prosecution Practices’, p. 176. Ruth Paley though reminds us that we should not confuse the impact of the police with ‘wider changes in society and increased expectations of orderliness’: in Mitchell and Smith eds, ‘English Law 1820–1914: A Review’, p. 336.

²²⁷ *WN*, 30 July 1870, *City of Dundee Police 150th Anniversary, 1824–1974*, (author unknown, Dundee), p. 54.

²²⁸ See Mark Finnane and Stephen Garton, ‘The Work of Policing: Social Relations and the Criminal Justice System in Queensland, 1880–1914 Part I’, *Labour History*, 62 (1992), p. 57, Clapson and Emsley, ‘Street, Beat and Respectability’, p. 108.

issuing the first police handbook and there is no reason to doubt the sincerity of the press when it reported, in 1901, that Dundee had ‘just cause to be thankful’ that its police force was ‘so admirably conducted’ under his watch.²²⁹

The years between the 1880s and the 1930s have been characterized as the era of the ‘Policeman State’ and we can be sure that as the period progressed the Dundee Force expanded its regulation of working-class leisure.²³⁰ As elsewhere, at the same time an increasing proportion of the population accepted the presence of the foot patrols seeking to control public spaces and promote order. This is evidenced by the frequency with which working-class witnesses reported crimes to beat officers. In one case, an off-duty constable was called ‘to put on his coat’ in order to take some noisy women to the station.²³¹ In another, a wife brought a complaint about her husband being ‘too familiar’ with another woman.²³² ‘DUNDEE’S SISTER’S CLEVER COUP’ was the headline in *The Journal*, in 1921. Police Sister Mrs Thompson was praised for using her ‘contacts amongst jute women’ to find out where the illicit drink trade was being carried on.²³³ To verify the good relations between

²²⁹ *Wizard*, 29 March 1900.

²³⁰ Gatrell, ‘Crime, Authority and the Policeman-State’, pp. 383-392, also Godfrey, ‘Changing Prosecution Practices’, p. 172. In Dundee fairs were controlled and the hours of licensed drinking reduced, a number of new police stations built and patrols re-organised. In Victorian England the ratio of the police to population averaged one to 700 in boroughs and this was true of Dundee too (the war years apart): Emsley, *The Great British Bobby*, p. 69, *Crime and Society in England 1750-1900*, 4th edn (London, 2010), *PoR*, 1917 p. 16, 1924 p. 14 and Appendix 1.1.

²³¹ *WN* 30 June 1900. Similarly Klein, *Invisible Men*, p. 7. But Fryson suggests complaints are not proof of the acceptance of the police, rather that neighbours wanted to see an arrest made and to see their stolen goods returned: *Magistrates, Police and People*, p. 362.

²³² *WN*, 19 March 1887.

²³³ The police had to gain a warrant to watch a house suspected of being a shebeen: *PJ*, 26 February 1921.

police and public we might also mention the praise officers received from the media for their services as first-aiders and lifeguards.²³⁴

What we cannot deny however is that, as elsewhere, police officers were routinely assaulted.²³⁵ In the late 1870s it was not unusual for the police to drag drunken prisoners for long distances to the station under a barrage of missiles thrown by a hostile mob, and in which women played a part.²³⁶ Likewise we can be sure that in the roughest districts the inhabitants remained unpredictable and hostile. There were several assaults on police officers in 1925 as they tried to carry out their duties, and street violence was not reserved for the representatives of the law.²³⁷ Reverend Williamson had missiles thrown at him in 1925, in Hilltown, by those who disagreed with his religious convictions.²³⁸

The inhabitants of the roughest areas dominate this study, but we need to be clear that for the most part Dundee's population sought to live decent, respectable lives.²³⁹ This can be demonstrated initially with press reports. The Queen's birthday celebrations

²³⁴ *PJ*, 3 September 1910 and the popularity of cheering on the police at their sports' days: 11 August 1909. Knox and McKinley acknowledge the lack of research on the relationship between the police and working classes in Scotland: 'Crime, Protest and Policing in Nineteenth-Century Scotland', p. 216.

²³⁵ For the latest: Klein, *Invisible Men*, pp. 167, 169, Macilwee, *The Liverpool Underworld*, pp. 22-24.

²³⁶ *City of Dundee Police 150th Anniversary*, p. 54.

²³⁷ *PJ*, 21 February and 4 July 1925.

²³⁸ *PJ*, 17 October 1925. Some streets in London claimed the title 'kill-copper row': Clive Emsley, 'My Ancestor Worked in ... the Police Force', *Who Do You Think You Are*, 28 (2009), p. 75.

²³⁹ For a discussion of the concept of respectability and its importance to the working classes in the period: Christopher Whatley, ed, *The Diary of John Sturrock, Millwright, Dundee 1864-65* (East Linton, 1996), p. 9, Helen Clark, 'She Was Aye Workin': *Memories of Tenement Women in Edinburgh and Glasgow* (Oxford, 2003), p. 14, Brian Harrison, *Peaceable Kingdom: Stability and Change in Modern Britain* (Oxford, 1982), p. 157, Joan Perkin, *Victorian Women* (London, 1993), p. 107, Standish Meacham, *A Life Apart: The English Working Class 1890-1914* (London, 1977), p. 26.

from 1876, for example, passed without a reported disturbance. And *The Weekly News* recalled how '[s]ome time ago it would have been thought of as an utter impossibility for Stobb's Fair Day to pass without a riot and a fight with the police'. By 1872 this was no longer the case.²⁴⁰ The second source of information is found in the crime archives. But as will be shown in the next section, it is impossible to determine the size of law-breaking section of the female population.

2.3 The Proportion of Women that Committed Crime

The available evidence suggests that the Dundonian authorities did not calculate the proportion of the female population involved in crime. From their data on the *apprehensions for drunkenness* (for males and females) we learn that 0.5 per cent of the population were involved in 1861, and 0.8 per cent in 1921. In the intervening six decades the proportion peaked at 1.2 per cent.²⁴¹ Sadly only one figure has been located that refers to the *total* level of reported crime. It relates to 1875, when civil servants calculated that the percentage of convictions to population was 5.52 per cent, which incidentally was in line with Glasgow, Edinburgh, and Aberdeen.²⁴² Since women and men were both brought before the police court, for committing the same

²⁴⁰ *DA*, 19, 24 May 1876, *WN*, 24 May 1902, 20 July 1872, *PJ*, 23 May 1925.

The good behaviour of large crowds of Dundonians was also evident in 1872, when workers turned out for the funeral of millowner Sir David Baxter. And during both the visit of the Prince of Wales in 1924 and PM Stanley Baldwin in 1925 the citizens, who thronged the streets, were said to have behaved excellently. It is also significant that the Overgate, which had the worst reputation for crime in the period, was never a no-go area for the police or middle classes.

²⁴¹ There was a peak in 1881 and 1901: Return of certificates for the sale of exercisable liquors, *PoR*, 1923 Table no. 18.

²⁴² *RHO*, p. iii. Similarly the English *Judicial Statistics*, reproduced by Macilwee, do not distinguish between male and female offenders: *The Liverpool Underworld*, pp. 8-9.

types of crime, the aggregate figure confirms our earlier suggestion that the vast majority of the Dundonian population were law abiding. When we consider that the police statistics indicate that the ratio of male to female crime was around 3:1 it would seem that female offenders were very much the exception. Still, there are problems with this argument.

Firstly, the finding that the female offender was uncommon in Dundee is based on notoriously unreliable police returns. No account has been made of the fact that the official figures are an artefact of the reporting and recording process, itself mediated by social factors. Secondly, the qualitative evidence contradicts it. There will be a detailed discussion of the place of alcohol in the city shortly, for now the exchange between Chief Constable Dewar and the Chairman of the Commission on Habitual Crime, in 1894, provides a convincing challenge to the picture provided by the police returns. When the latter observed that Dundonians were ‘broadly speaking ... unruly’, Dewar concurred.²⁴³

We are reminded time and again by sociologists that crime is not a fact but a judgment. Trying to determine the ‘unruly’ proportion of the female population is a largely spurious task given the very high degree of police discretion, the appointment of new chief constables—there were four during the period—as well as the numerous legislative changes all influenced how Dundee’s crime figures were tabulated.²⁴⁴ The analysis in the chapters to come however needs a solid foundation. For the record, the statistics for the leading offence of *drunkenness and disorder*, in the 1881 police

²⁴³ *RHO*, 12,954.

²⁴⁴ Bright notes how the change in police personnel affected crime statistics: ‘Loafers Are Not Going to Subsist Upon Public Credulence’, p. 40. Labelling theory will be discussed in Chapter 4.

returns, indicate that around 2 per cent of Dundee's female population were arrested for being unruly (theft figures excluded, see Appendix 2.2). As the unknowable and inconstant dark figure looms large over the archives a more realistic average could be as much as ten times greater because the police probably only charged women who were deemed a threat or a particular nuisance.²⁴⁵ On the other hand, there are salient considerations that must cause the guesstimate to be revised downwards. The first is the effect on the returns of habitual offenders like Margaret Gow and Mary Ann Stewart who, as we shall learn in due course, were often returned to court on a monthly basis. The other consideration is that the majority of Dundee's working class aimed to evoke respectability, a point made earlier that merits further discussion.

2.3a) Slum Dwellers, 'Some of the Finest Christian People'

There is no shortage of examples with which to demonstrate the reach of social mores into the Dundee slums. For a start, it was usual for Sunday's activities to revolve around religion: in 1906 Reverend James Fenton guessed that, even in the most impoverished districts, three homes out of five were connected with the Church of Scotland. And a colleague added that *here* he had met 'some of the finest Christian people', who were mostly 'members and office-bearers of the church'.²⁴⁶ This type of religiosity, of course, was strongly associated with temperance and fear of the Demon

²⁴⁵ See discussion in Chapter 1, Section 1.2 b) Police statistics: 'abysmally deficient and wretchedly ambiguous', and Appendix 1.1. Hans Eysenck and Gisli Gudjonsson estimate that the crime rate is three to four times higher than the recorded level: *The Causes and Cures of Criminality* (London, 1989), p. 21. Dodge, writing about the incidents that led to imprisonment, observes that for every transgression there were 'at least another hundred: *Whores and Thieves*', p. 260.

²⁴⁶ *WN*, 17 March 1906. See also Ian McCraw, *Victorian Dundee at Worship* (Dundee, 2002), p. 55. Another clue is the popularity of the Free Library with workers: *WN*, 19 July 1879, *C*, 16 December 1904, *PJ*, 14 October 1922. Self-help societies similarly thrived see *WN*, 6 March 1880.

Drink. A further sign of the discourse of respectability in the Dundee slums was the sharp divide between the city's textile workers that caused weavers and mill workers to walk on opposite sides of the street.²⁴⁷ And this in turn was reinforced by the high value placed on domesticity and appearance. It was common for wives, after they had finished a full day at work, to spend their evenings cooking, cleaning and washing.²⁴⁸ When *The Peoples' Journal* reported on the rat plague in Peddie Street, in 1925, it informed its readers that the houses involved were typical of working-class homes, that is, they were 'without exception ... scrupulously clean' and hence by implication their tenants were respectable and law-abiding.²⁴⁹ Furthermore it is significant that the biggest and most popular stall at the annual Lady Mary Fair sold Nottingham lace curtains,²⁵⁰ for, as D'Cruze notes, starched net curtains in the front window symbolised good order within the home.²⁵¹

Morrison and Perkin observe that many working-class women in England policed the behaviour of their neighbours.²⁵² The majority of Dundee's working-class women, we can be sure, used their appearance to demonstrate to their neighbours that they were not of a 'rough' social status.²⁵³ The archives record the style of their Sunday outfits

²⁴⁷ Baxter's Mill, in particular, was strongly associated with the respectable working class. On the division between Dundee's textile women see *PJ*, 14 October 1922, 8 July 1905, *DYB*, 1903, p. 154. A similar division was pronounced in Lancashire too: Carolyn Steedman, *Landscapes for a Good Woman: A Story of Two Lives* (London, 1986), p. 116.

²⁴⁸ Brooksbank recalled 'two or three hours' were spent on domestic chores after work each evening: *No Sae Lang Syne*, pp. 7, 23, 29, and Dundee Oral History Project 011/A/1 hereafter DOHP.

²⁴⁹ *PJ*, 15 August 1925.

²⁵⁰ *PJ*, 26 August 1922 and Elizabeth Dye, *Tales of Old Dundee* (Dundee, 1947), p. 65.

²⁵¹ D'Cruze, *Crimes of Outrage*, p. 192, Zedner, *Women, Crime and Custody*, p. 18.

²⁵² Morrison, 'Ordering Disorderly Women', p. 125, Perkin, *Victorian Women*, p. 107.

²⁵³ This subject is well covered elsewhere: Ross, 'Not the Sort That Would Sit on the Doorstep': Respectability in Pre-World War I London Neighborhoods', p. 49. It is not

and the ability to be seen wearing Sunday best, of course, evoked respectability.²⁵⁴

James Scrymgeour, social commentator and friend of the poor, noted that mill workers, in an effort ‘to acquire some status in order to be *respected by others*’, would ‘endure cold, and even hunger’ to buy clothes (my italics).²⁵⁵ In the same way the 1905 press cartoon provided below captures the desire of a stereotypically poorly paid spinner to have a new outfit.²⁵⁶

Image 2.1: The ‘Spinner’s Ambition’



surprising that the interviewees in Dundee’s Oral History Project emphasized their daily struggle to remove the static and pungent jute fibres from their clothes when feminine virtue was defined by appearance: Kay, *Odyssey*, p. 39, Gordon, *Women and the Labour Movement*, p. 160, Rowbotham and Stevenson, ‘Causing a Sensation’, p. 38, Louise A Jackson, ‘“Singing Birds as Well as Soap Suds”: The Salvation Army’s Work with Sexually Abused Girls in Edwardian England’, *Gender and History*, 12 (2000), p.113.

²⁵⁴ *PJ*, 18 June 1881, ‘see them wi’us doon the toon,/ Ye wadma tak’ them for mill lasses’ is a line from ‘The Blithe Mill Lasses’ by George Watson.

²⁵⁵ From ‘Hard Times Come Again No More’ in Walker, *Juteopolis*, p. 41.

²⁵⁶ A later cartoon illustrates the disappointment, of a respectable family of textile workers, when the mother and daughter cannot have the ‘new frocks’ they had hoped for out of the father’s back pay: *PJ*, 17 January 1920.

From: *Wizard*, 26 January 1905.²⁵⁷

Yet at the same time that Dundee's working-class women prioritized values of respectability they had a reputation for drunken disorder. Given that for Victorians decency was strongly associated with sobriety how should we apply the concept of respectability in the face of this contradiction?

We are thwarted by the numerous ways in which contemporaries applied the term.²⁵⁸ Newspapers employed 'respectable' sincerely, to refer to the middle classes and the law-abiding working class. In the context of the crime reports it was applied sarcastically to imply that a woman was anything but. The label was equally used, without mockery, to women who were known to the courts. This is inferred in James Scrymgeour's letter to *The Advertiser* in 1886. Alluding to clothing given to the poor he wrote that 'a respectable woman *with a little history*' had received a bonnet (my italics).²⁵⁹ Similarly, in 1877, Chief Constable Dewar referred to the 'fairly respectable' section of Dundee's population as 'usually law-abiding'.²⁶⁰ And it is not only in Dundee that the language is confusing: Ellen Ross cites baffling references to 'rough but respectable' factory girls.²⁶¹

²⁵⁷ I am grateful to Dundee's Local History Centre (Central Library) for permission to reproduce this image.

²⁵⁸ Griffiths and Morton note '[a]s much as Scotland was a society of ubiquitous drinkers, so it was a society brimming with disapprobation against that very act': 'Introduction: Structures of Everyday Life in Scotland, 1800 to 1900', in Whatley and Foyster, *A History of Everyday Life*, p. 16. See also Meacham, *A Life Apart*, p. 26, Salme Anlström, 'Cultural Differences in Women's Drinking', *Contemporary Drug Problems*, 22 (1995), p. 404.

²⁵⁹ *DA*, 25 January 1886.

²⁶⁰ *C*, 9 April 1877.

²⁶¹ Ross, "Not the Sort That Would Sit on the Doorstep", p. 42.

All in all the local evidence supports Paul O’Leary’s belief that the social categories of the ‘rough’ and ‘respectable’ were not ‘hermetically sealed’ and contemporaries themselves experienced great difficulty drawing a distinction.²⁶² Andrew Davies also discusses the difficulties of knowing what respectability meant in the period. He found that in Salford and Manchester, during the early twentieth century, only a tiny minority of women rejected the prevailing moral values, even though they drank.²⁶³ In keeping with this view it seems that when Dewar referred to the ‘fairly respectable’ section of Dundee’s population he was probably thinking of those who on weekdays were hard working but who enjoyed a drinking spree at the weekends and holidays.²⁶⁴ It may be that as a consequence of the sizeable female workforce in both Lancashire and Dundee that the standard for establishing female respectability was lower here than elsewhere.²⁶⁵

Given that there is a place for Peter Bailey’s metaphor that Victorian respectability was ‘like a collar’, that could be worn when the situation required, we are clearly on unstable ground trying to gauge the ‘true’ level of female criminality by assessing the size of the law-abiding and law-breaking sections of the population from the ambiguous, contradictory and fragmentary local sources.²⁶⁶ What we can say is that

²⁶² O’Leary, ‘Networking Respectability’, pp. 259, 270. Jewish immigrants similarly appeared ‘neither rough nor respectable’: Englander, ‘Policing the Ghetto’, p. 39.

²⁶³ Andrew Davies, *Leisure, Gender and Poverty: Working-Class Culture in Salford and Manchester 1900–1939* (Buckingham, 1992), p. 61.

²⁶⁴ *C*, 9 April 1877.

²⁶⁵ Local historians associate the unconventionally strong drinking habits of Dundee’s women with their independent character, originating in their position in the labour market Billy Kay, ed, *The Dundee Year Book: An Anthology of Living in the City* (Edinburgh, 1995), pp. 10, 155.

²⁶⁶ Cited by O’Leary, in ‘Networking Respectability’, p. 266.

the working woman, writing to *The People's Journal* in 1900, was right to observe that the city's mill girl was 'not so black as she is painted'.²⁶⁷

Our concern in the rest of the chapter is with contextualizing female offending and here we can be less circumspect. For the most part we will study how contemporaries understood the causes of dishonesty and disorder. But by drawing upon modern social science we shall see that their key opinions were entirely justified.

2.4 The Causes of Crime

In 1884 the Dundonian authorities ran an essay competition on the subject of crime and criminals in Scotland. The winning entry, written by Constable Dunn, began with the statement that drink was 'the great producing cause of crime' in the city.²⁶⁸ All of Dundee's commentators said pretty much the same thing and the view was mirrored nationally.²⁶⁹ According to a government report, at the end of the nineteenth century, over 90 per cent of adult offenders brought before Scotland's magistrates were under the influence of drink when they perpetrated the offence.²⁷⁰

²⁶⁷ *PJ*, 1 December 1900.

²⁶⁸ Lamb 237(5), p. 1.

²⁶⁹ There are too many to list. A representative statement is provided by ex-Bailie Norrie's that, from his experience as a magistrate, 'but for drink and drunkenness scarcely any cases would be brought before the Police Court': *C*, 19 January 1885. Similarly *C*, 17 November 1877, 20 January 1885, *DA*, 4 January 1876.

²⁷⁰ *RHO*, p. xlvi. For statements of the same effect by leading Scottish judges: F W Farrar, 'Drink and Crime', *Fortnightly Review*, 59 (1893), pp. 790-791.

We are repeatedly warned against giving the contemporary accounts of drinking any authority on the grounds that they may contain a teetotalist bias.²⁷¹ This well-intentioned advice, however, is somewhat misplaced given a myriad of respected British and North American studies have shown that offences related to drink were either those most commonly committed or *amongst those* most commonly committed. Professor Donnachie addresses the issue head on: ‘even when the evidence is stripped of its Temperance propaganda’, he writes, ‘there seems little doubt that drunkenness was a problem’ in the period.²⁷²

The extreme temperance language does not alter the fact that blood ethanol concentrations affected the mental function and behaviour of our antecedents. Today there is no storm of protest when the British Medical Association or Home Office associates alcohol with over 50 per cent of fights or when experts report that alcohol frees parts of the brain from inhibiting social controls (see Appendix 2.6).²⁷³ What evolutionary biologists show us is that, notwithstanding the intervening century, the pharmacological effects of alcohol on the human nervous system are the same. The

²⁷¹ Kemp, ‘Drink and the Labour Movement’, p. 31.

²⁷² Ian Donnachie, ‘World War I and the Drink Question: State Control of the Drink Trade’, *Scottish Labour History Review*, 17 (1982), p. 19. A selection of historians include: Frank Neal, ‘A Criminal Profile of the Liverpool Irish’, *Transactions of the Historic Society of Lancashire and Cheshire*, 140 (1990), p. 163, Donald G Wetherell, ‘To Discipline and Train: Adult Rehabilitation Programmes in Ontario Prisons, 1874–1900’, *Historie Sociale*, 12 (1979), p.147. Bright, ‘Loafers Are Not Going to Subsist’, p. 45. Criminologists say the same thing: Carrabine, *Criminology*, pp. 207, 219.

²⁷³ Today it is reported that women are responsible for one in three drunken fights in Scotland’s city centres, and in England they are responsible for an average of 240 daily assaults. The police blame binge drinking and the so-called ‘ladette culture’ for female aggression: *Sunday Times* 30 August 2009 and *Daily Mail* 26 May 2009. Royal College of Psychiatrists, *Alcohol and Alcoholism: The Report of a Special Committee of the Royal College of Psychiatrists* (London, 1979), p. 31, Roger Swift, *Behaving Badly? Irish Migrants and Crime in the Victorian City* (Chester, 2000), p. 289, Trevor Bennett and Katy Holloway, ‘The Causal Connection Between Drug Misuse and Crime’, *British Journal of Criminology*, 49 (2009), p. 515.

quiet become talkative, the calm become hyperactive, and its disinhibiting effects may prompt the normally law-abiding to offend.

2.4 a) Whisky: The ‘Curse of Dundee’

The drunks’ barrow was a common sight in urban Britain and North America.²⁷⁴

Some of the women it transported in Dundee were so intoxicated that the duty officer feared they would die in custody; others were still insensible when they appeared before the magistrates the next morning.²⁷⁵ Obviously alcohol was responsible for their place in the police returns. The place of alcohol in the disorder statistics, and the theft returns, on the other hand, probably requires some explanation.

Several historians of the nineteenth century have noted that the reason disorder increased at the weekends, bank holidays and during the annual holidays was because workers had drink inside them. The same applies to Dundee.²⁷⁶ And if further evidence is needed of the role of alcohol in incidents of breach of the peace then the numerous cases that originated in a complaint brought by a working-class witness provides the proof.²⁷⁷ This is because within the subtext provided by an exasperated neighbour there is no cause to suspect that the accused claimed to be drunk to escape

²⁷⁴ C H Rolph, *London Particulars: Memories of a London Boyhood* (Oxford, 1982) p. 76, Simon Gunn, *The Public Culture of the Victorian Middle Class: Ritual and Authority in the English Industrial City 1840–1914* (Manchester, 2007), p. 63, Fingard, *The Dark Side of Life*, p. 191.

²⁷⁵ *WN*, 3 December 1887, 17 July 1880, 20 July 1872.

²⁷⁶ *WN*, 19 April 1879, *PR* 1905 pp. 213, 224, Jones, *Wales*, p. 78, Taylor, *Crime*, p. 63, Klein, *Invisible Men*, p. 79.

²⁷⁷ *WN*, 6 March 1880, 9 January 1886, 21 February 1885, 29 August 1885, *DA*, 24 November 1876.

personal responsibility for their behaviour. As will be apparent next, this was exactly what many women accused of assault tried to do.²⁷⁸

Margaret McGinty told the fiscal she was ‘mortal drunk’ and did not remember assaulting anyone. The judge did not believe her. It was, he said, a standard statement and when enquires were made they were ‘usually found to be false’.²⁷⁹ There is no record of what the judge considered to be a more likely cause of her belligerence, but thanks to a number of social histories we can speculate that he blamed McGinty’s violent character and socialization. Certainly organised fights were a source of entertainment for some sections of the nineteenth-century working class; what seems more important for our purpose is that violence was, for many, the main method for resolving disputes.²⁸⁰ White observes of inter-war London that if people did not stand up for themselves they would be pushed under, while Fingard notes that assaults were especially common within the context of the family.²⁸¹

There is compelling evidence that in Dundee violence frequently took the place of negotiation in the home, on the street and in the workplace.²⁸² The sources at hand

²⁷⁸ *WN*, 26 June 1886, SC45/37/62, SC45/37/57, SC45/37/58. Drunkenness was a defence for violent crime so prisoners may have overstated the role of alcohol to avoid personal responsibility for their actions: James Deveron, *The Criminal and the Community* (London, MCMXII), p. 26. Nigel Walker, *Crime and Insanity and England, Volume I: The Historical Perspective* (Edinburgh, 1968), pp. 177-8.

²⁷⁹ *DA*, 12 June 1886.

²⁸⁰ Godfrey, ‘Changing Prosecution Practices’, p. 176, Ellen Ross, ‘Fierce Questions and Taunts’: Married Life in Working-Class London, 1870–1914’, *Feminist Studies*, 8 (1982), p. 592, Russell Davies, *Secret Sins: Sex, Violence and Society in Carmarthenshire 1870–1920* (Cardiff, 1996), p. 132.

²⁸¹ White, *The Worst Street in North London*, p. 97, Fingard, ‘Jailbirds in Mid-Victorian Halifax’, p. 78.

²⁸² Wife beating is frequently mentioned in the police court columns 1865–1900. The themes are similar to those discussed by Joanne Bailey, ‘I dye[sic] by inches’:

probably provide us with merely a hint of the brutality that marked the lives of the roughest section of the working class because, as the existing studies of other cities describe, the authorities would only have become involved when the violence exceeded the normal standards.²⁸³ But what must be emphasised at this point is that we must not discount the place of drink in crimes of aggression. There is strong evidence that a great many female assaults were drink-related.²⁸⁴ Against this background it is best to consider drink and violent culture as two interconnected causal factors, for the simple reason that the consumption of alcohol, by the already splenetic members of the female community, would make a fight more likely.²⁸⁵

Alcohol was even more central to nineteenth- and twentieth-century British popular culture than violence. Historians have unearthed a whole host of evidence confirming that, by the 1880s, it was not unusual for women to publicly treat each other to drink.²⁸⁶ While female intoxication was a problem throughout urban Britain, it seems likely that alcohol presented Scotland with the most unyielding troubles. It is worth

Locating Wife Beating in the Concept of a Privatization of Marriage and Violence in Eighteenth-Century England', *Social History*, 31 (2006) 275-294.

²⁸³ David Woods, 'Community Violence', in John Benson, ed, *The Working Class in England 1875-1914* (London, 1985), p. 171. Fights were normally allowed to continue, Ross believes, unless there was a dangerous weapon, a lot of blood or expressions of real terror: 'Fierce Questions and Taunts', p. 592. Chapter 5 will show the police preferred informal solutions.

²⁸⁴ *WN*, 20 July 1872, 22 March 1879, 11 December 1880. Similarly, Zedner, *Women, Crime and Custody*, p. 35, Davies, *Leisure, Gender and Poverty*, p. 70, Hughes, 'The 'Non-Criminal' Class', p. 40, General William Booth, *In Darkest England and the Way Out* (London, 1895), p. 184.

²⁸⁵ Macilwee agrees that alcohol was probably the most important reason for rowdiness and crime in Liverpool in the period. He considers that the Irish temperament also played a part: *The Liverpool Underworld*, pp. 103, 51. There is not the opportunity to discuss the evidence in Dundee, but it is noted that a significant number of the defendants referred to in the thesis have Irish-sounding names.

²⁸⁶ Norman S Kerr, of the National Temperance Association, *Female Intemperance* (London, 1880), p. 4, Zedner, 'Women, Crime, and Penal Responses', pp. 317, 332, Petrow, *Policing Morals*, p. 187 and Kemp, 'Drink and the Labour Movement', p. 31.

speculating that the reason why drunkenness and disorder were generally given a lower ranking than petty theft in the English crime figures is because the effects of female intoxication in the south were less startling. For the moment at least Scotland lacks an in-depth study of drinking. However a number of historians observe drinking and drunkenness were more widespread north of the border.²⁸⁷ This too is suggested by the official visit, in 1902, of magistrates from Dundee and Glasgow to Liverpool; since their express purpose was to investigate why that city had a far better record on drunkenness than their own.²⁸⁸ The choice of Liverpool is ironic of course, given its exceptionally high levels of drunken disorder.²⁸⁹

The contemporary view, that beer and whisky drinking produced different effects, provides a convincing explanation for the primary position of drunken disorder offences in the Scottish records. As contemporaries recognised, Scots preferred whisky, in the south the favourite tippie was beer. And when the English did take spirits, it was noted, they were ‘very much diluted’. The respected social commentator Sir James Crichton-Browne, of West Riding, emphasised that whisky produced ‘fiercer and more violent forms of intoxication’.²⁹⁰ He was right to do so because today there is multi-disciplinary acceptance that spirits are absorbed more rapidly

²⁸⁷ Ian Donnachie, ‘Drink and Society 1750–1850: Some Aspects of the Scottish Experience’, *Scottish Labour History Journal*, 13 (1979), p. 9, F M L Thompson, *The Rise of Respectable Society: A Social History of Victorian Britain 1830–1900* (London, 1988), p. 314.

²⁸⁸ *RHO*, 414.

²⁸⁹ Howell, *Geographies of Regulation*, pp. 83, 91, P J Waller, *Democracy and Sectarianism: A Political and Social History of Liverpool 1868–1939* (Liverpool, 1981), p. 110. Such was the problem of female drunkenness in Liverpool, in 1871, the gaol had to be extended: Morrison, ‘Ordering Disorderly Women’, p. 110. And for a detailed discussion of Liverpool as the ‘most criminal, the most drunken, the most lawless city in the United Kingdom’ see Macilwee, *The Liverpool Underworld*, p. xiii.

²⁹⁰ *C*, 12 August 1879, the view was common: *RHO*, 15,089.

thereby causing more disorderly and aggressive behaviour than beer.²⁹¹ On this basis it seems that Scottish criminality was different and this is what stands out when the national crime patterns are compared. Based on the local evidence there are, moreover, grounds for believing that in Scotland Dundee stood out.

A visitor to Dundee described the city's working women, in 1919, as 'nearly all addicted to snuff and drink'.²⁹² This was unfair, but if Scotland generally is associated with the 'wee dram' then Scots themselves had cause to identify Dundee with bacchanalia. There is no getting away from drink in the Dundonian archives. We find it again, dominating the plot, in the story of theft.

If we wish to speculate why Dundonian women stole we can discount social discontent with the ruling class.²⁹³ As has been found elsewhere, the neighbours, lodgers and family members who were most commonly the victims of crime usually had little more by way of possessions than the thieves.²⁹⁴ Mats, in fact, were stolen in Baltic Street – this was one of the city's most appalling slums where some of the most impoverished of the population lived.²⁹⁵ The previous studies spell out that Victorian thefts were motivated by poverty.²⁹⁶ Some scholars underline the regularity with which petty crime was used to survive unemployment and to supplement meagre

²⁹¹ Royal College of Psychiatrists, *Alcohol and Alcoholism*: p. 28 and Appendix 2.6.

²⁹² Cited in Edward J Cowan and Richard J Finlay, ed, *Scottish History: The Power of the Past* (Edinburgh, 2002), p. 249.

²⁹³ Some scholars believe that in response to societal inequalities some working-class offenders commit crime in an attempt to redress the balance: White, *The Worst Street in North London*, p. 123.

²⁹⁴ JC26/1880/14, *WN*, 12 July 1879, 13 March 1880, 5 April 1890, 3 December 1887. Ross, 'Fierce Questions and Taunts', p. 584, Wise, *The Blackest Streets*, p. 98.

²⁹⁵ *WN*, 23 October 1872.

²⁹⁶ John Benson, 'Work', in John Benson, ed, *The Working Class in England 1875–1914* (London, 1985), p. 71 and White, *The Worst Street in North London*, Knox and McKinlay, 'Crime, Protest and Policing in Nineteenth-Century Scotland', p. 206.

incomes as evidence to expose what they regard as the myth of the ‘criminal class’.²⁹⁷ As will be discussed in Chapter 3, the criminal class was not an illusion, but leaving that aside for now it is clear that although poverty and unemployment were plentiful in Dundee they do not explain, at least not directly, the bulk of property crimes in the city. And it is here that drink makes its next big entry.²⁹⁸

To begin with, it is clear that poverty and unemployment did not directly lead to crime because most thefts did not involve food or coal (the plunder we can most readily imagine taken in order to survive). Secondly, there is a relative absence of statements in the court records indicative of desperate need. Of course some of the female thieves who claimed to have been motivated by their own and their children’s hunger were genuine. But it is highly unlikely all spoke sincerely when it was well known that Dundee’s judges were lenient when their sympathy was excited.²⁹⁹ A third reason for finding that poverty was not the default cause of theft is that in times of economic depression the pressure of naked want did not result in a rise in the level of property crime – a trend identified by Douglas Hay.³⁰⁰

As the chart below illustrates, (Figure 2.1) during periods of depression the number of females apprehended for petty theft did not increase. In fact the reverse is true. In the

²⁹⁷ For a recent study see Rosalind Crone, ‘Reappraising Victorian Literacy through Prison Records’, *Journal of Victorian Culture*, 15 (2010), p.9.

²⁹⁸ For a discussion of the complex relationship between alcohol, crime, poverty and living conditions: Macilwee, *The Liverpool Underworld*, pp. 102-106.

²⁹⁹ JC26/1868/62, C, 4 August 1885, *WN*, 19 April 1879. Elsewhere women tried to make themselves appear vulnerable by pleading guilty and by claiming they had responsibility for children: Lynn Mackay, ‘Why they Stole: Women in the Old Bailey 1779-1789’, *Journal of Social History*, 32 (1999), p. 624.

³⁰⁰ Hay, ‘War, Dearth and Theft in the Eighteenth Century’, p. 135. For a similar contemporary view see, Dorothy Swaine-Thomas, *Social Aspects of the Business Cycle* (London, 1925).

severe depression of 1885 only ten female thefts were reported. The year before had seen 217, and in 1886 there were 150. What about any seasonal patterns of criminality: did winter see an increase in thefts—when prices were at their highest and social conditions at their worst—as some previous scholars would lead us to believe?³⁰¹ A study of Dundee’s monthly police returns during the years 1897 to 1902, when monthly figures were collated, reveals little seasonal variation in the level of female larceny.³⁰² Scotland’s Prison Commissioners, though, did expect that the hardships of winter would cause an abundance of dishonesty crimes, so perhaps the methodology is at fault.³⁰³

This is certainly what A. H. Hobbs suggested. He would ask is the economic index a sensitive enough reflection of the fiscal conditions that would have actually affected the lives of the persons who committed crime?³⁰⁴ The answer, in the case of the Dundonian sources, must be no. Neither the crime statistics nor the economic data are reliable measurements. Weaver prompts us to consider whether it is worth asking if there was a relationship between property crime and the economy at all. He maintains that there is no compelling argument for the notion that the number of thefts increased in periods of economic distress. Opportunity, he writes, is a significant variable and ‘scarcity is a slippery concept’.³⁰⁵ It is a valid argument that appears to pertain to

³⁰¹ Most recently Fingard, *The Dark Side of Life*, p. 156.

³⁰² Unfortunately the police only published monthly crime rates during the eight-year period 1897–1904, see Appendix 2.3. There are similarly inconclusive findings elsewhere in the period: Goldsmith, ‘The Development of the City of Glasgow Police’, pp. 201–2, Macilwee, *The Liverpool Underworld*, p. 104.

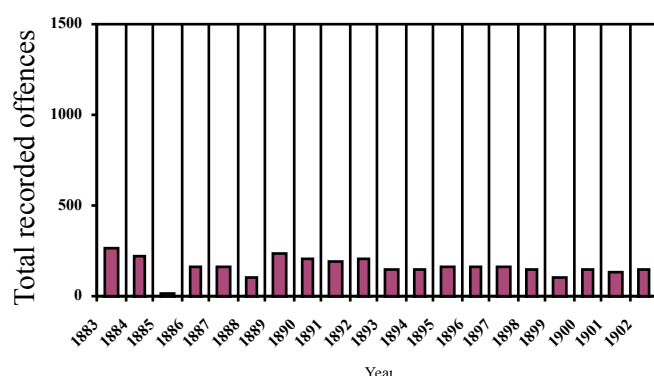
³⁰³ *PR*, 1905 p. 213.

³⁰⁴ Albert H Hobbs, ‘Relationship Between Criminality and Economic Conditions’, *Journal of Criminal Law and Criminology*, 34 (1943), p. 5.

³⁰⁵ Weaver, *Crimes, Constables and Courts*, p. 247. Similarly Simon Field finds that there is no simplistic theory that unemployment and crime are linked: ‘Crime and

Dundee, because, as will be emphasised intermittently in the following sections, the most powerful variable was the opportunity to access drink and for offenders, at least, this was very often independent of the wider economic situation.

Figure 2.1: Apprehensions, Citations for Female Theft (Simple) 1883–1902



From: *PoR* 1883–1902 see Appendix 2.1.

Another sure sign that thefts were not, generally, motivated directly by poverty in Dundee is the fact that when stolen goods were pawned, as they usually were, the money was not used to buy food or coal. The motif of the records is that the plunder was traded as a means to procure drink.³⁰⁶ Pawnshops provided an essential service to thieves. Ellen Ross explains that pawning was a woman's domain,³⁰⁷ and by

Consumption', Muncie, McLauchlin, and Langan, eds, *Criminological Perspectives*, p. 115.

³⁰⁶ In a typical case Margaret Spunk or Dorward JC26/1869/44 stole domestic items, pawned them and she said she 'drank the money'. In 12% of the high court records analysed the defendants gave a similar account (81 cases detailed analysis). As will be discussed in Chapter 3 the proportion could be higher given that not all women made a declaration explaining the circumstances of their offence. A similar picture is provided in J H Potter, *Inasmuch the Story of the Police Court Mission 1876–1926* (London, 1927), p. 8.

³⁰⁷ There were pawnbrokers dealing in stolen articles throughout the period in Dundee. Similarly, Ross, 'Fierce Questions and Taunts', p. 588, Wise, *The Blackest Streets*, p. 98, Andrew Barrett and Christopher Harrison, *Crime and Punishment in England: A Sourcebook* (Oxon, 1999), p.203, Macilwee, *The Liverpool Underworld*, pp. 176-177.

venturing into Dundee's crime archives we discover that women cemented the relationship between the pawnshop and drink by pledging everything they 'could lay [their] hands on', including their husbands' and children's possessions.³⁰⁸ When their family could no longer be parasitized they pledged borrowed articles from neighbours. 'I will not be responsible for any debts contracted by my wife ... after this date', was the telling public notice posted by a husband in a Scouringburn slum in 1869.³⁰⁹ Finally, it seems that many women were driven to thief on a regular basis to fuel what had by now become a drink habit. We know this because the high court records show that a significant proportion of the recidivist-thieves, who were sentenced to penal servitude, stole to obtain money to purchase drink.³¹⁰ Incidentally judges had no problem accepting that drink made them do it. Sheriff Ogilvy reasoned that drunkenness 'was very common in persons of [their] character'.³¹¹ Indeed, the accounts show that Dundee's classic habitual offender was convicted of drunk and disorderly behaviour, often on a weekly basis.³¹² We will learn a lot more about the women entrenched in the criminal justice system in due course, but for now the problems associated with drink in the period require our close attention.

³⁰⁸ *WN*, 24 July 1880.

³⁰⁹ Front page C, 18 February 1869.

³¹⁰ JC26/1869/44, JC26/1882/10, JC26/1884/12, JC26/1866/60 the same was heard at the police court, for example *WN*, 21 February 1885.

³¹¹ *WN*, 1 July 1865. The previous studies also show that drink was strongly implicated in thefts: Jones, *Lancashire Lasses*, p. 56, Zedner, *Women, Crime and Custody*, p. 60.

³¹² *PoR*, 1876, p. 8, *RHO*, 12, 919. Similarly, in 2011 35 per cent of women prisoners at Scotland's HMP Corton Vale indicated that they had committed their offence to obtain money for drugs: *Report of the Commission on Women Offenders* (Scotland, 2012), p. 20.

2.4 b) Dundonians ‘Worshipping at the Shrine of Bacchus’³¹³

Those who knew Dundee were familiar with its drink culture. The early-twentieth century local author Elizabeth Dye, who drew on her own and her family’s experience of working-class life in the Victorian city, paints a vivid picture of the social attraction of the pub on Saturday nights. Her story set in 1886 describes how:

[d]rinking was the chief entertainment ... the people freed from the mills gave themselves up to the joys of their “dram”. Their children, wise in their generation, saw to it that a nip of whisky and a bottle of beer were secured for Sunday mornings, to save their parents from the horrors of the previous night’s drinking, and the expense of the Sunday morning shebeeners.³¹⁴

The local newspapers wholly confirm Dye’s portrayal.³¹⁵ Dundee, like other Scottish cities, was a spirit-drinking area and if it was not whisky being drunk it was the ‘scooner and stick’; a glass of beer with whisky added. In Dye’s story the children anticipate that their parents will suffer for their Saturday night spree. Since the press makes frequent references to those obtaining their ‘mornin’ fix of whisky, a significant proportion of the population seems to have sought to avoid the jitters on a daily basis.³¹⁶

Some indicators survive of the huge amount of drink consumed in the period. In 1893 the Licensing Court heard that one pub, in the centre of Lochee, sold ‘750 gallons proof’ of whisky annually.³¹⁷ Women, we can be sure, were regular customers.

According to *The Weekly News* in the space of three hours, ‘Margaret McCafferty and

³¹³ *WN*, 16 October 1903.

³¹⁴ Dye, *Tales of Old Dundee*, p. 34.

³¹⁵ For example, the press observed that for many drink was regarded as a food: *WN*, 17 March 1906. Similarly Macilwee, *The Liverpool Underworld*, p. 105.

³¹⁶ *WN*, 27 March 1880.

³¹⁷ *WN*, 13 May 1893.

Ann McGuire ... drank two glasses of whisky and one of rum each' in a Scouringburn pub.³¹⁸ Many more accounts on the same theme could be provided: the point is that women were among the sozzled spewed onto the streets at closing time.³¹⁹

It is known that in Lancashire women drank in the privacy of their own homes and it would have been far easier for Dundee's jute workers to do this since unique to Scotland was the licensed grocer (or spirit dealer).³²⁰ From him the locals, but notably women, bought whisky along with their household supplies. Proof that slum dwellers had ready access to these outlets is found in the licensing figures. In 1877, for example, the Hawkhill district had eleven pubs and twenty-three licensed grocers, while the Hilltown possessed sixteen pubs and twelve grocers – and this is just counting the legally recognised sellers.³²¹

In one sitting, in November 1872, Bailie Moncur tried six cases of illegal trafficking in spirits, or shebeening as it was known.³²² Six cases in one sitting was nothing unusual in the 1870s and 1880s. As Dundee's Chief Constable Dewar described, in various parts of Scotland the illegal trade was 'very extensive' when the pubs were

³¹⁸ *WN*, 6 March 1880.

³¹⁹ *DA*, 13 November 1903, *PJ*, 25 May 1907. Previous studies indicate that it was not unusual to see women in the bar: Davies, *Leisure, Gender and Poverty*, p. 66, Grace, 'Female Criminality in York and Hull', p. 34, Macilwee, *The Liverpool Underworld*, p. 106.

³²⁰ The Scottish sources present the licensed grocer as unique to that nation, however they are associated with female intemperance in the *Englishwoman's Review*, October 1874.

³²¹ *PoR*, 1877, p. 25. The locality of licensed public houses, grocers and spirit dealers was recorded in a number of police reports in the period: *PoR*, 1859, 1869, 1877, 1881, 1927 allowing comparisons to be made. There was a long tradition of drinking in Dundee. In the 1840s there was one pub to every twenty-four families: W Hamish Fraser, 'Necessities in the Nineteenth Century', in Whatley and Foyster, *A History of Everyday Life*, p. 65.

³²² *DA*, 8 November 1872, 4 out of the 7 defendants were women.

closed; at night and on Sundays.³²³ What we ought to remember about shebeen booze is that it was often adulterated. The whisky hidden in a pigsty, in 1905, was said to be ‘about the rawest material that had been made’ and it would have been a cruelty, the procurator said, had the pigs consumed it. Nevertheless, it appealed to ‘a certain class’ on a Sunday.³²⁴ We might speculate that contemporaries were justified in believing that home-made whisky produced more disorderly and aggressive behaviour than the legal (better quality) liquor, since modern research shows that alcohol absorption is influenced by its chemical composition. By adding other compounds its effects become more potent.³²⁵

As the study develops it will become clear that poverty was the backdrop to female criminality in Dundee. It is therefore necessary to pre-empt the question that if the city’s women were impoverished, how was it that they were able to obtain alcohol?

2.4 c) Jemima Rose: How Did She Afford to Take a Glass?³²⁶

Although only small amounts of alcohol would be required to intoxicate the undernourished and underweight, apart from the war years and the very end of the period, drink was available twenty-four hours a day, seven days a week in Dundee.

³²³ ‘Treatise on Scottish Liquor Law Legislation’, *S’man*, 4th–5th March 1887. They were at their busiest on a Sunday, for under The Forbes McKenzie Act 1853 pubs were closed on the Sabbath. The central district of Glasgow was said to have 150 shebeens in 1872 and the city experienced similar problems of drunkenness: Goldsmith, ‘The Development of the City of Glasgow Police’, pp. 331, 324-5.

³²⁴ *PJ*, 9 December 1905 and it was referred to as a ‘sheebenine’. *WN*, 13 May 1893, *PJ*, 15 June 1907.

³²⁵ Royal College of Psychiatrists, *Alcohol and Alcoholism*, p. 28.

³²⁶ Ms Rose was a prostitute mentioned in the popular song about Dundee’s Overgate.

And we can be confident that women were definitely not dependent on their own earnings for obtaining alcohol.

Offenders landed in prison having sponged drink off family members and neighbours. Treating was widespread, probably on the understanding that the favour would be returned at a later date.³²⁷ When conviviality did not define the mood in the tenements women could find opportunities to obtain a dram on the street. Some sang for the money, others begged, and prostitutes, like Jemima Rose, who will be discussed in the next chapter, were treated by their potential customers.³²⁸ The influence of ‘Uncle’, however, was instrumental in most offenders accessing drink and their consequential appearance in court.³²⁹ ‘Uncle’ was the local pawnbroker and the small sums he provided were spent on booze rather than food, just like in the North American slums.³³⁰ For Campbell the number of pawnshops in an area is an indicator of poverty in Scotland.³³¹ The trade directories demonstrate Dundee’s thriving debt trade.³³²

Margaret Johnston or Richardson, when asked by the procurator fiscal where she got the money for drink, answered ‘I took off my clothes and pawned them’.³³³ And it was not uncommon for women offenders (and men) to literally pawn the clothes off their back for a ‘chaser and a stick’. In the poorest areas the back door of the

³²⁷ *WN*, 4 January 1879.

³²⁸ *DA*, 18 June 1886 records that Mrs O’Neill frequently sang on the streets and made from 3s to 4s a night by it, which she spent on drink.

³²⁹ *RHO*, 2945.

³³⁰ Fingard, *The Dark Side of Life*, p. 122.

³³¹ R H Campbell, *The Rise and Fall of Scottish Industry 1707–1938* (Edinburgh, 1980), p. 210.

³³² Appendix 2.4, Watson’s for example, expanded over 2 years from numbers 46 to 70 in the Hilltown district.

³³³ *WN*, 23 October 1872.

pawnshop was located enticingly at the foot of the dark tenement stairs and it was open till midnight. Unsurprisingly many a family's possessions were steadily transferred here. But 'uncle' was just one of a number of entrepreneurs providing drink on credit.

It was usual to buy on tic at the licensed grocer; the alcohol would appear on the ledger as some innocuous item, such as soap or tea. The incentive for doing so was that only a debt on non-alcoholic purchases could be pursued. And then there were the 'wee pawns', or the dolly shops, as they were known in London; the network of unlicensed lenders who trapped the most desperate. We may assume that there was a proportion of unlicensed brokers in Dundee.³³⁴ What *is* recorded is that many were in the business of selling booze. It did not matter that Elizabeth Young had no money when she went to a Dudhope Street shebeen early one Sunday morning. Her offer of her shift and shawl 'in pledge for a sixpence worth of whisky and the loan of a sixpence' was accepted. Mrs Phinn was similarly obliging when Mary Jane McCulloch explained that she was having some friends round but had no money for drink.³³⁵

The archives reveal that when creditors were not forthcoming women were prepared to forgo food in order obtain a dram. Even those on parochial relief spent their money 'thus received on liquor.'³³⁶ This will explain why, as we shall see next, drink-related crimes did not necessarily decline during periods of economic depression.

³³⁴ On this subject see Thomas Ferguson, *Scottish Social Welfare: 1864–1914* (Edinburgh, 1958), p. 74.

³³⁵ *DA*, 1 November 1872, *WN*, 9 October 1886, *C*, 19 June 1884.

³³⁶ *PJ*, 18 May 1907, 36th *PiSR* 1875 p. 10. The CC of Fifeshire provided a similar statement: *RHO*, 13,854 and the picture is echoed in Macilwee, *The Liverpool*

2.4 d) Correlating Drunkenness with the Jute Trade

Previous historians have found that drunkenness and disorderly behaviour multiplied when wages increased, and declined when unemployment increased.³³⁷ When cross-references are made between Dundee's crime reports and the newspaper accounts of trade all we find is contradiction and confusion. In 1889, for example, the chief constable reported an increase in offending, the result, he said 'of the present prosperity of trade'.³³⁸ The year, indeed, is recorded in the press as one of steady and regular employment with gradually increasing wages.³³⁹ Similarly, the 1883 peak in female (and male) breaches of the peace and drunkenness occurred when the press rejoiced in the 'considerable improvement after the period of depression'.³⁴⁰ However, the evidence is also replete with examples of the opposite occurring. In 1879 a decrease in disorderly behaviour coincided with a 'substantial improvement in all branches' of trade and recorded crime again fell in 1901.³⁴¹ It seems that policing factors were surely implicated since the first year of the new century was one of the most prosperous in the decade for jute.³⁴²

Underworld, p. 105.

³³⁷ George B Wilson, *Alcohol and the Nation: A Contribution to the Study of the Liquor Problem in the United Kingdom from 1800 to 1935* (London, 1940), pp. 232-233.

³³⁸ *PoR*, 1889, p. 5.

³³⁹ *DYB*, 1889, p. 18.

³⁴⁰ *DYB*, 1883, p. 22. Similarly in 1915 drunkenness offences increased, this was blamed on the fact that factory operatives were gaining increased wages and the weekly payments made to soldiers' were spent on drink.

³⁴¹ *DYB*, 1879, p. 11.

³⁴² *DYB*, 1901, p. 24.

Previous scholarship of English manufacturing towns has shown that when wages reduced drinking reduced.³⁴³ The same cannot be said of Victorian Scotland: Aspinwall found that north of the border drunkenness was rampant amongst the Irish in good times and bad, and the same pattern is replicated amongst the general population in Dundee.³⁴⁴ In 1885, for example, when the economic collapse was so severe that the town council was forced to take action to relieve the unemployed and destitute, 811 women were charged with breach of the peace and over 400 with drunkenness.³⁴⁵ As the next chapter will show, Jemima Rose probably sold herself in one of the narrow alleys leading away from the shore. Others consumed ‘finish’, a mixture of methylated spirits and shellac, used in furniture polishing.³⁴⁶

Clearly there were often manifold processes involved in women procuring whisky and this makes it all the more remarkable that the most persistently drunk hardly needed to make any effort. Some of those whose lives, the press said, were ‘made up of bouts of drinking, debauchery, rioting and general disorderliness’ were plied with offers of a dram from friends and strangers alike, both on their release from prison and when they were spotted on the street.³⁴⁷ We need to be clear about this: Margaret Gow Dundee’s most prolific offender was *freely offered* drink, but she could not get food.

³⁴³ Jones, *Crime*, pp. 56-57, Woods, ‘Community Violence’, pp. 165-206.

³⁴⁴ Bernard Aspinwall, ‘Catholic Devotion in Victorian Scotland’, in Martin Mitchell, ed, *New Perspectives on the Irish in Scotland* (Edinburgh, 2008), p. 40.

³⁴⁵ *WN*, 28 March 1885, there was a similar pattern as the depression continued into the next year: *DA*, 9 January 1886. This was a trend in an earlier period of economic collapse too: *WN*, 4 January 1879.

³⁴⁶ A study of the press shows that meths drinking was a common problem in Glasgow and Salford: *Manchester Evening Chronicle*, *The Manchester Guardian* both 7 February 1923.

³⁴⁷ *DYB*, 1888 p. 192, *RHO*, p. xlvii, Lamb 216(59) and Lamb 307(8).

In the next section we shall step aside from the relationship between drink and crime and give an overview of Dundee's socioeconomic conditions. From this we will begin to understand something about why women drank and we will be left in no doubt of the enduring appeal of whisky.

2.5 Bad Trade, Bad Times, It Was Enough to Make the Angels Weep

The 'poorest specimens of humanity I have ever seen' was how a factory inspector described Dundee's mill workers in 1904.³⁴⁸ Mary Brooksbank, the city's poet, said of the time of the factory inspector's visit that life was 'a grim round of poverty, hunger and hardship'; but there was nothing particular about either that year, nor that decade to account for his impression.³⁴⁹ The majority of the period was just how Brooksbank recalled it.

If there is ever an illustration to be drawn of the dangers of relying on a single industry, Dundee must surely be it.³⁵⁰ The mass of its population depended on jute manufacture, a low-profit industry whose boom period was confined to the early 1870s and a brief interlude during World War I. When economic depression came to Dundee, which it did regularly from the mid-1870s, the effects on the working classes were usually disastrous. Not only did the textile operatives suffer wage cuts, short-time and unemployment, but the recession also had serious implications for none-jute workers. Those employed in engineering, Dundee's second largest employer—the machine maker to jute—also faced destitution. Those employed by the town council

³⁴⁸ Mr J Wilson quoted in Lennox, p. xx.

³⁴⁹ Brooksbank, *No Sae Lang Syne*, p. 3.

³⁵⁰ Because of its reliance on jute, Victorian Dundee is commonly referred to by local historians as 'a lop-sided city': Watson, *Dundee*, pp. 118-119.

saw their wages cut and trade failure was inevitably calamitous for shopkeepers, cabmen and the people found in every city who scraped a living as bootblacks, match sellers and ice-cream vendors, since Dundee lacked a salaried class whose wages would have ensured steady spending.

The city was increasingly isolated from the rest of Britain by its dependence on jute. A more balanced economy would have ensured that there was greater opportunity for gaining employment outside of textiles. In contrast to the 26 per cent of Aberdeen's female population that found employment in the service sector, the corresponding figure for Dundee was a mere 8 per cent.³⁵¹ Indeed, such was the meagre size of its middle class that only five rows of Georgian terraces were necessary to house them.³⁵² Nevertheless, Dundee did have its super rich of textile magnates with their extravagant mansions in Broughty Ferry.

Dundee's jute barons were mean employers. Knowledge of British social history would lead us to expect that their operatives would receive no holiday pay at this time. But Dundee's workers also had to suffer frequent extra and unwelcome unpaid breaks when machinery needed extensive repairs, when trade was slack and when shortages of raw jute stopped production. Problems with shipping and supply resulted in a lack of jute, and so too did the fires in the city's warehouses, of which there were many (from the tendency of the raw material to combust spontaneously when stacked). Dundee's employers compare badly with philanthropic mill-owners such as David Dale and his son-in-law at New Lanark or the likes of Bannerman in

³⁵¹ Gordon, *Women and the Labour Movement*, p. 28.

³⁵² I H Adams, *The Making of Urban Scotland* (London, 1978), pp. 82-3 and Liverpool was also dominated by its working class.

Aberdeen.³⁵³ In 1893 the Royal Commission on Labour found that in one mill there were only two lavatories for 300 women, ‘dry and in shocking condition’.³⁵⁴ In 1906 Mary Macarthur, the general secretary of the Women’s Trade Union League, observed that there was ‘no town in the UK where men and women laboured under worse conditions than in Dundee’.³⁵⁵ And we should be in no doubt that minimal help was provided to the workers at a local level.³⁵⁶ It seems the employers preferred to spend their wealth building the fine industrial architecture that dominated the city’s skyline.³⁵⁷

It was work that dominated the people’s lives. Some women gave birth in the mills, other elderly women died there. Press reports show that it was not unusual for the over sixty-fives to still be working.³⁵⁸ All the tasks were arduous. ‘Thick stour/ Deafenin’ sound/ O’ working machinery/ All around’, is how Mary Brooksbank described conditions.³⁵⁹ The average week in the 1870s was 60 hours, and despite the ten hours legislation, it was still possible to work a twelve-hour day right up to 1900. The women were standing all day, lifting heavy weights, in conditions of heat, noise,

³⁵³ T C Smout, *A History of the Scottish People 1560–1830* (London, 1998), p. 383, and for a comparison see, Hamish W Fraser and Clive H Lee, eds, *Aberdeen 1800–2000: A New History* (East Linton, 2000), p. 155.

³⁵⁴ HMSO, *Report of the Royal Commission on Labour, The Employment of Women* (London, 1893), p. 309.

³⁵⁵ *DA*, 22 December 1906 quoted Walker, *Juteopolis*, p. 32.

³⁵⁶ For example, in the depression of 1894, a number of unemployed women went to the Lord Provost to complain that they had not received the money they were due from the Charity Organisation Society, *C*, 20 February 1894.

³⁵⁷ For more on Dundee’s industrial architecture: Mark Watson, ‘Jute Manufacturing: A Study of Camperdown Works Dundee’, *Industrial Archaeology Review*, X (1988), p. 181, Raymond Lamont-Brown and Peter Adamson, *Victorian and Edwardian Dundee and Broughty Ferry from Rare Photographs* (St Andrews, 1981).

³⁵⁸ *WN*, 4 July 1885.

³⁵⁹ Anna MacDonald, *Dundee Tenement Talk: In Verse* (Dundee, 1998), on Dundonian pronunciation: Dorward, *Dundee: Names, People and Places*.

dirt and danger. They were constantly exhausted, and it will come as no surprise that fatal accidents were common throughout our period.³⁶⁰

As with the rest of Britain, 1920 brought a very serious trade depression to Dundee. The cyclical periods of economic boom and bust were replaced by a permanent period of stagnation and collapse as even the largest jute manufacturers shut down. Thousands were thrown idle, including managers and policemen, grocers threatened to strike, and some pubs were forced to close.³⁶¹ By 1925 the president of Dundee's Chamber of Commerce had acknowledged that the city's textile trade was in a 'deplorable condition' and around this time the wages in jute were the lowest of any industry sanctioned by the Board of Trade.³⁶² Wages, though, had always been poor.

'Extreme poverty', according to the well-placed observer Reverend Henry Williamson, the founder of Dundee's millworker's union, was 'the lot of a large proportion of the [city's] population' in the Victorian period.³⁶³ Walker illustrates that almost half of the male labour force earned significantly less than the 21/8d per week at the time when Rowntree had calculated this sum was necessary for the 'bare ... physical' efficiency of a family of two parents and three children.³⁶⁴ And this was if they were in work: throughout the period male unemployment was high. It was

³⁶⁰ *PJ*, 3 January 1925.

³⁶¹ As revealed by a reading of the press from the time, see *C*, 26 February 1920, *PJ*, 30 September 1922.

³⁶² *PJ*, 28 March 1925, Walker, *Juteopolis*, pp. 95, 424 (39/1d for men and 25/- for women respectively).

³⁶³ *PJ*, 28 October 1922. Williamson initiated many schemes for the benefit Dundee's working women as well as founding the first trade union for mill girls.

³⁶⁴ Walker, *Juteopolis*, p. 92 quoting B S Rowntree 'Poverty a study of town life' (London, 1902, p. 110). A case showing this is found *C*, 12 June 1903.

widely recognised that husbands were often a ‘deadweight’ upon their wives, spending their days loafing around the streets and their nights drunk.³⁶⁵

As for the women, their wages were insultingly low – lower than in the country as a whole.³⁶⁶ At the turn of the century the Social Union investigators reported that the Dundee families living on women’s wages alone had less than 15s per week.³⁶⁷

Commentators well knew the impossibility of supporting a family on this sum but even this they could not depend upon.³⁶⁸ Operatives must have dreaded passing factory notice boards, for it was here warnings of the frequent pay cuts (usually of 5 per cent) were posted.

Sack sewers were perhaps the most inadequately paid jute workers. Earning around 6 shillings a week, these ‘ill-nourished and ill-clad’ women were a familiar sight well into the new century, ‘staggering alone ... bent under the weight of a heavy bundle of coarse cloth’ they were taking home to sew.³⁶⁹ This unsavoury aspect of the slums was not unique to Dundee. Throughout Britain sweated workers toiled chronically long hours, labouring and living in the same unsanitary room, outside the remit of effective legislation until the twentieth century.³⁷⁰

³⁶⁵ An abundance of sources make this point: *DYB*, 1903 p. 154, *PJ*, 26 October 1900. In Lancashire too, in the same period, women weavers were responsible for bringing home a significant proportion of a household’s income as well as looking after the family: Steedman, *Landscapes for a Good Woman*, pp. 99, 100.

³⁶⁶ *C*, 20 August 1920 and below.

³⁶⁷ Walker, *Juteopolis*, p. 144 quoting *DSU*, pp. 25-26.

³⁶⁸ *WN*, 17 March 1906.

³⁶⁹ *PJ*, 28 October 1922. Walker, *Juteopolis*, pp. 96-7, Christopher A Whatley and David B Swinfen and Annette M Smith, *The Life and Times of Dundee* (Edinburgh, 1993), p. 115.

³⁷⁰ John A Hobson, *Problems of Poverty and Inquiry into the Industrial Condition of the Poor*, 7th edn (London, 1891), p. 155. In Dundee sack sewers were making up sacks from lengths of hessian fabric, elsewhere old sacks were recycled: Richard

Given the low and insecure wages it is not unexpected that there was a constant struggle for a bare existence in Dundee. Around a fifth of the working-class wage was spent on rent, and, in the first decade of the twentieth century, rent and other essentials were on a par with, if not more expensive than, central London.³⁷¹ The result was that the poorer classes were forced to survive on bread and tea; a diet that compared unfavourably with the food of prisoners (a point that will be raised again in Chapter 6).³⁷² The meagre diet is the reason the factory inspector (cited earlier) was able to identify the city's mill workers by their short and light frame.

Social historians have documented the inadequacy of the pre-war working-class diet throughout Britain's urban centres. They discuss how poverty defined their experience in the run *up to* the First World War.³⁷³ This is true. But some urban centres continued to be defined by poverty and Dundee is an example. As local poet Mary Brooksbank described, for the city's women workers, right up to the thirties, life was 'a living hell of hard work and poverty'.³⁷⁴ Davies observes that the reason for the generalisation about the improvement in living standards, after World War I, is

Mudie-Smith, ed, *Sweated Industries A Handbook of the 'Daily News' Exhibition* (London, 1906, reprinted 1980), pp. 39-40.

³⁷¹ *DYB*, 1901 p. 203, 1904 p. 85, *DA*, 6 January 1916, Bruce Lenman, Charlotte Lythe and Enid Gauldie, *Dundee and its Textile Industry 1850-1914* (Dundee, 1969). Walker, *Juteopolis*, pp. 92-3, Gordon, *Women and the Labour Movement*, p. 144. For discussion of the high costs in Dundee *C*, 20 August 1920, 15 February 1917, *WN*, 10 July 1886.

³⁷² *DSU*, pp. 34, xv. Meagre quantities of the nutritionally poor white bread and margarine remained the staple diet in the most impoverished urban slums in Britain at the turn of the century; a diet that Engels and others famously described in Lancashire in the 1840s.

³⁷³ John Burnett, *Plenty and Want: A Social History of Diet in England from 1815 to the Present Day* (London, 1979), p. 123, Robert Sandall, *The History of the Salvation Army, Volume I: 1865-1878* (London, 1950), Ross, 'Fierce Questions and Taunts', p. 585.

³⁷⁴ Brooksbank, *No Sae Lang Syne*, p. 29.

that relatively little attention has been paid to conditions in the 1920s and 30s. Citing inter-war surveys of Merseyside, Manchester and Bristol, as well as the results of his own oral history of Salford, he argues that nearly one third of the working-class population in these areas continued to live in or on the margin of poverty. And his findings mirror Robert Roberts' writings on Lancashire and C.H. Rolph's recollections of his London boyhood, that while poverty was not *as bad* as it had been in the Edwardian period, times continued to be very hard.³⁷⁵ But mill girl Jane Walsh, their Oldham contemporary, paints the clearest picture:

I'd never seen a tree growing without a coating of soot over it, which blackened your finger if you touched a leaf. I'd never known grass which was thick and flower-studded, which wasn't trodden down into lank wisps against the soil below it. I'd never seen a stretch of sky which wasn't broken by rooftops and mill chimneys.³⁷⁶

Incidentally, national legislation had little effect on the Dundonian's poor pay and lack of job security. The National Insurance Act of 1911 might have been a major step forward in providing medical and sick benefit for the employed earning less than £150 per year, but it did not cover dependents.³⁷⁷

Inevitably Dundee's unbalanced economy bore a large responsibility for how its working classes lived and as the ability of Dundonian jute to compete with its Indian

³⁷⁵ Rolph, *London Particulars*, p. 91, Davies, *Leisure, Gender and Poverty*, pp. 20, 26, 14, quoting from *The Classic Slum*.

³⁷⁶ Jane Walsh, *Not Like This* (London, 1953), p. 18. Walsh was born in 1905 and in her autobiography she vividly describes the dreadful poverty of the 1920s and 30s and the humiliation of the Means Test. See also Catherine Bailey's *Black Diamonds: The Rise and Fall of an English Dynasty* (London, 2007) which describes the desperate condition of the miners and their families in some districts of South Yorkshire.

³⁷⁷ Despite The Unemployed Workmen Act 1905, which established the prototype of the Labour Exchange, conditions for the poor remained appalling. The poverty of the 1920s is clearly demonstrated by headlines in the press, for example 'PRIDELESS WAYS OF THE 'NEW POOR' refers to applications to the Parish Relief Committee. *PJ*, 26 February 1921.

rivals deteriorated their social problems multiplied. The next section offers a snapshot of the wretchedness of the workers' housing, underlining why women turned to drink. It is also a reminder of the important issue of crime causation.

2.5 a) 'Dinna Speak Tae Me o' the Guid Auld Days'³⁷⁸

Dundee's tenements were poorly built. They had been thrown up quickly in response to the massive population growth that accompanied industrialization. They were dark. In the tenements backing onto the jute works and warehouses a torch would have been required even during daylight hours. And the poorest families lived in basement rooms below ground level. All Victorian cities suffered from this type of inadequate housing, but as D'Arcy Thompson, social commentator and a leading figure at the city's University College, recalled, accommodation in Dundee was particularly substandard.³⁷⁹

Dundee had the highest level of overcrowding in Scotland, the highest rates of infant mortality and more died from tuberculosis here than in any other Scottish city.³⁸⁰

These were problems raised by the 'famous' Social Union Report of 1905.³⁸¹ There

³⁷⁸ Mary Brooksbank, *Sidlaw Breezes* (Dundee, 1982), pp. 14-15.

³⁷⁹ Thompson, 'Fifty Years Ago and Now', p. 4. On interwar period: George Bruce, 'Through Darkening Years: A Personal Account – Dundee 1934–46', in Kay, *The Dundee Year Book*, p. 202. Contemporary discussions are plentiful: *WN*, 12 August 1879, *PJ*, 9 December 1905, 28 October 1922.

³⁸⁰ Again there is no shortage of discussion: Ferguson, *Scottish Social Welfare: 1864–1914*, p. 91, Anne Petrie, *The 1915 Rent Strikes: An East Coast Perspective* (Dundee, 2008), p. 17. The statement on TB refers to records gathered between 1901 and 1907 from J M Jackson, ed, *Third Statistical Account of Scotland the City of Dundee* (Arbroath, 1979), p. 389.

³⁸¹ Its fame, according to the press was assured by September 1905: *PJ*, 9 September 1905. On infant mortality: Thompson, 'Fifty Years Ago and Now', p. 4. Dundee Social Union reported 1893–1902 the average infant mortality rate was 176 births per

are at least two reasons why those who could have brought about a real improvement in working-class conditions resisted reform. Firstly, many held fast to the view that charity did the poor more harm than good. Secondly, there were those who believed the Union had exaggerated the extent of deprivation in the city.³⁸² They were wrong. Hundreds of records held in the local archives confirm that the Report was no exaggeration.³⁸³ In fact it is hard to over-emphasise the squalor of Dundee's tenements.

In the words of local historian Norman Watson, some of the Dundonian accommodation was 'about as desirable as the plague'.³⁸⁴ His description does not only apply to the Victorian era. Those born around 1919, interviewed for the city's oral history project, had direct experience of the 'great big open middens' (rubbish dumps), in front of the tenements, where 'ye hid ti take every'hin along ti'.³⁸⁵ In fact, in 1925, when the hated Robert Allan, Inspector of Poor, lectured Dundee University students on the city's 'present day social conditions', he referred to 'homes where misery and squalor are rampant'. 'You have at your very doors', he concluded, 'conditions as would make the angels weep'.³⁸⁶ As he was not a man prone to exaggeration we should shudder at his summary.

1000; Glasgow was next and a long way behind with a rate of 149: *DSU*, p. xii, also Walker, *Juteopolis*, pp. 81,108.

³⁸² For example Grocers' Benevolent Society held this view: *C*, 1 December 1905. *The Manchester Guardian* was surprised, on reading the DSU report that more was not done: *PJ*, 9 September 1905.

³⁸³ This was known by commentators not connected with the Union. For example James Campbell, superintendent of the Boys' Home wanted more help to be given to the poor.

³⁸⁴ Watson, *Dundee*, p. 183.

³⁸⁵ DOHP, 040/A/1.

³⁸⁶ *PJ*, 28 February 1925.

In 1925 Prime Minister Baldwin visited the kind of damp, disease-ridden slum Allan had in mind. In the ‘Blue Mountain’ district, that straddled Scouringburn and Hawkhill—names that are familiar in the court records—Baldwin learned that there were 165 houses per acre, direct sunlight reached only a limited number of the tenements and all were without an indoor water supply.³⁸⁷ There had been efforts to improve the Dundee slums but the process of housing reform had been too slow. The 1871 Improvement Act had established a pattern whereby the overcrowded tenements were demolished without plans being made for the rehousing of the tenants. Throughout Britain slum clearance schemes simply uprooted poor communities, and, likewise, by failing to build affordable replacement housing Dundee’s authorities caused the problem of overcrowding to become steadily worse.³⁸⁸ As Whatley explains, after the First World War only feeble efforts were made to tackle the housing crisis. It was 1927 before *The British Medical Journal* could report that typhus had disappeared. And it was not until the end of World War II, after a great deal of agitation in the city, that there was a house-building spurt. But it was the 1980s before there were more dwellings than households in Dundee.³⁸⁹

³⁸⁷ *PJ*, 13 June 1925, the clean up of slum districts saw Scouringburn renamed Brook Street and we find both names used in the sources.

³⁸⁸ Watson, *Dundee*, pp. 183-4, Whatley, *The Life and Times of Dundee*, p. 148, for overcrowding problems in London: Wise, *The Blackest Streets*, pp. 274, 252, Drew D Gray, ‘Tales of the City, Writing London’s Histories’, *Journal of Urban History*, 35 (2009), p. 916.

³⁸⁹ Whatley, *The Life and Times of Dundee*, p. 186, Brooksbank, *No Sae Lang Syne*, p. 27, Eric Eunson and Bill Early, *Old Dundee* (Ayshire, 2002), p. 6 also *PJ*, 31 January 1925. The ‘old’ Overgate referred to in this study was pulled down in the 1960s and replaced by a modern shopping precinct.

This was the state of living conditions in our period and, following a national trend, it was in Dundee's poorest areas that public houses flourished best.³⁹⁰ As this phenomenon takes us to the heart of the correlation between drink and poverty and equally to the core of the link between drink and crime, it is worth quoting contemporaries who believed that the female poor were driven to find respite in booze.

2.5 b) Seeking an Escape Through Drink

'Foul air depresses; depression craves for stimulants, and stimulants beget drunkenness and its long train of curses', observed Lord Aberdare in 1875.³⁹¹ Today, although it is generally recognised that there is no single reason why people drink, his explanation still holds good.³⁹² Certainly there was plenty of celebratory drinking in Dundee. The documents related to drunkenness and disorder, however, refer mostly to women's misery drinking that was intended to bring a sense of escape from the wretchedness and monotony of the slums and all too often the brutality of their husbands.³⁹³ Mrs Miller was one victim of domestic violence who was, the press reported in 1888, addicted to drink. She 'appeared in the witness box barefooted and

³⁹⁰ Dye, *Tales of Old Dundee*, p. 33, *DYB*, 1901 pp. 213-4, H J Dyos and Michael Wolff, eds, *The Victorian City Images and Realities: Volume I Past and Present / Numbers of People* (London, 1973), p. 169, Wise, *The Blackest Streets*, p.47, Waller, *Democracy and Sectarianism*, p. 110.

³⁹¹ *S'man*, 7 October 1875.

³⁹² Royal College of Psychiatrists, *Alcohol and Alcoholism*, p.89.

³⁹³ *DYB*, 1901 pp. 213-4, *WN*, 17 March 1906, Whatley, ed, *The Diary of John Sturrock*, p. 20. This finding is mirrored in the previous research: Wise, *The Blackest Streets*, p. 88, Macilwee, *The Liverpool Underworld*, p. 117. Incidentally Knox and McKinlay argue drink was also 'one of the more obvious ways the poor, the unrespectable, had of flouting the moralising of middle classing and their agents of coercion – the police': 'Crime, Protest and Policing in Nineteenth-Century Scotland', p. 206. As far as I am aware the Dundonian evidence does not support this view.

miserably clad', both her eyes blacked and swollen. She lived with her [alcoholic] husband and three children in Kinnaird Street. Their 'furniture consisted of a table, and a shake down of sacks on the floor served for a bed.' Mr Miller was not in steady employment, but she 'toiled every day at sack sewing.'³⁹⁴

The city's observers took up the issue of women drowning their sorrows. Reverend Williamson told a story of the typical 1870s mill girl who worked twelve hours a day, but still did not earn enough for essentials. He explained how feeling helpless she would buy a dram and pay nobody.³⁹⁵ Similarly, in 1893, Reverend Hamilton said that:

[he] did not wonder at some poor women at the end of the week, when they received a little money in their hands, rushing off to the first public house for a drink to drown, in some degree, the sense of depression under which they had worked all week.³⁹⁶

Women found the fastest escape from their problems through drink. Because their hand-to-mouth existence will have increased their psychological need for alcohol this may explain why, according to the police statistics, drinking remained stable throughout the Victorian depressions. We have seen that the socio-economic conditions were persistently awful throughout the six decades of the research and so we can be sure that the need for a release will have continued. But by the end of the

³⁹⁴ *WN*, 14 April 1888.

³⁹⁵ *PJ*, 14 October 1922. The same type of behaviour was noted by Margaret H Irwin of female sack sewers in 1906. 'It will usually be found that when wages sink below a certain level, there is far less tendency to thrift than when a comfort wage can be earned [because] ... the worker is benumbed by a sense of the utter hopelessness': cited in Mudie-Smith, ed, *Sweated Industries A Handbook of the 'Daily News' Exhibition*, p. 40. This reaction was also noted in Chicago: Unknown author, *The Social Evil in Chicago: A Study of Existing Conditions with Recommendations by the Vice Commission of Chicago* (Chicago, 1911), p. 200. And by Margery Spring Rice in *Working-Class Wives their Health and Conditions*, (London, 1939, reprinted 1981).

³⁹⁶ *WN*, 29 April 1893.

period there were means, other than drink, with which to escape the squalor of the slums. In Section 2.2 we considered female criminality over the long term. It is worth returning to that issue briefly again now in light of the changes in popular culture brought about in the years before World War I.

The national statistics, as illustrated in Table 2.3, indicate that from the turn of the century there was a reduction in alcohol consumption. Joanne Klein is confident of a change in working-class culture in this direction. Andrew Davies and Michael Macilwee though doubt the extent it applied to women. Davies observes that as there was a growth in the number of women who drank in pubs in all likelihood female consumption will have increased.³⁹⁷ Macilwee cites the view of Liverpool's Head Constable that the decrease in drunkenness at the end of the century was at a slower rate amongst women than men.³⁹⁸ We also find commentators in Leeds and London, in 1925, complaining of the 'increasing use' of pubs by 'young people of both sexes' that led to their appearance at the police court.³⁹⁹ As for Dundee, *The Courier* reported in 1913 on 'increased drinking' amongst women.⁴⁰⁰ And there is no reason to question the continued popularity of pubs, even though the ratio of drinking outlets to population had decreased over the period from 1:227 to 1: 434 (Appendix 2.7). But whether alcohol retained the same tight hold over the city's women into the inter-war period is an altogether different matter.

³⁹⁷ Klein, *Invisible Men*, p. 74, Davies, *Leisure, Gender and Poverty*, p. 62.

³⁹⁸ Macilwee agrees though that there was some improvement in sobriety towards the end of the century, *The Liverpool Underworld*, p. 117.

³⁹⁹ *Leeds Mercury* 3 March 1923, *Salford Manchester Evening Chronicle*, *The Manchester Guardian* both 7 February 1923.

⁴⁰⁰ *C*, 4 April 1913. On the increased female drinking at the start of the twentieth century, because it was no longer shameful for women to be seen going into a pub, see also Morrison, 'Ordering Disorderly Women', pp. 118, 112, Hunt, Mellor and Turner, 'Wretched, Hatless and Miserably Clad', p. 248.

Table 2.3: Index of Annual Per Capita Alcohol Consumption in Britain 1885–1934

Years	Index of annual per capita alcohol consumption (gallons of proof spirit)
1885 – 9	3.8
1890 – 4	4.0
1895 – 9	4.2
1900 – 4	4.1
1905 – 9	3.6
1910 – 14	3.4
1915 – 19	2.3
1920 – 4	2.3
1925 – 9	2.0
1930 – 4	1.4

From: Royal College of Psychiatrists, *Alcohol and Alcoholism* (London, 1979), p. 93. Notwithstanding the increasing regulation of the sale of intoxicants, in the

Scouringburn, pubs continued to be ‘almost door to door’. Equally there was no substantial reduction in licensed grocers. There were 185 licensed shops at the start of the period, 171 at the end (Appendix 2.7).⁴⁰¹ Hence the grocer will have continued to omit whisky from his log facilitating drinking in the home and the washhouse. The number of shebeens did decline though. By 1925 the authorities had won their long-term battle with the illegal liquor trade.⁴⁰² That the statutory penalty increased from £7 to £50 for a first offence was one reason, but there were clearly others. The increased social control, that was discussed earlier, will have played a part, and a debt is surely owed to the ‘moving pictures’.

The cinema vied with alcohol to provide an escape from the slums. As a contemporary recognised in 1924:

⁴⁰¹ *PJ*, 24 October 1925. The police reports illustrate that there were still 211 pubs in 1921, there had been 260 in 1861: *PoR*, 1921 p. 12. See also Appendix 2.7.

⁴⁰² *PoR*, 1917 p. 13, 1921 p. 11, 1922 p. 11, 1926 p. 11.

in grim and sordid surroundings ... [the cinema gives] the light and colour for which all humanity ... craves, and often finds only in the public house ... They feed the imaginations of those who are too tired or too unskilled to read; they provide a seat for those who have no room at home to sit.

In 1910 the first cinema brought glamour and a little romance to Dundee. Two years later there were thirteen. Crucially, the cinema was especially attractive to women and in some towns the audience was 75 per cent female.⁴⁰³ The question of how far the cinema and the other forms of popular recreation, that by now were increasingly accessible to the working classes, were responsible for a decline in women's drinking cannot be addressed here.⁴⁰⁴ Rather, it is time to draw together the key findings of this chapter.

2. 6 Conclusion

In 2010/11, according to the Commission on Female Offenders, the bulk of the reported female crime was low-level with fewer than 2 per cent involving serious violence. In 2012, 35 per cent of women prisoners at HMP Corton Vale indicated that they had committed their offence to obtain money for drugs, and 42 per cent said that they had been drunk at the time of their offence.⁴⁰⁵ This chapter has shown that there is nothing incongruent about the present.

⁴⁰³ Conference on Christian Politics, Economics and Citizenship 1924, cited by Davies, *Leisure, Gender and Poverty*, pp. 73-74. For more on the cinema in Dundee see Whatley, *The Life and Times of Dundee*, p. 123.

⁴⁰⁴ A Scottish commentator referred to how football, cycling, museums and the railway had 'rais[ed] the moral tone' and got people out of public houses, *S'man*, 4 November 1897. And in Dundee, Edwin Scrymgeour's Prohibition Party was popular with females because of the fun to be had on marches and excursions.

⁴⁰⁵ *Report of the Commission on Women Offenders* (Scotland, 2012), pp. 18, 20.

Dundee's historical evidence suggests that in the period 1865–1925 the majority of female offenders were charged with drunkenness, 'assault, breach of the peace [and] disorderly conduct'—summary offences of an anti-social nature—with petty theft in third place. This picture is largely consistent with what previous studies have found of offending in Britain and North America in the period, although the prominence of theft in the records varies. In England and Wales it was usually the leading female offence but in Scotland it was consistently in third place, after drink-related crime. Grace suggests the differentiation is one of law and policing rather than of behaviour.⁴⁰⁶ Here it has been shown that behavioural differences must not be dismissed so readily and the choice of whisky over beer may be at the heart of understanding the detail of female criminality in the individual nations.

The local evidence suggests that the circumstances surrounding female crime echo accounts from elsewhere. The female offender, in the period, most frequently stole domestic items from members of her own class and she fought with her female neighbours, her spouse and the police. And just as there was a tendency to use blows to settle disputes in England, there was a culture of violence amongst some sections of Dundee's working-class population. This provides an important explanation for a proportion of the assaults captured in the court reports. The consumption of alcohol (including adulterated drink) aggravated the women's underlying readiness to resort to fists and was a strong contributor to female fights.

The Victorian newspapers are full of references to aggressive and drunken women. But a reading of the press also suggests that the majority of Dundonian working-class

⁴⁰⁶ Grace, 'Female Criminality in York and Hull', p. 140.

women were ‘respectable’. Supporting Davies’ view it has been found that the local evidence does not fit with familiar tropes of Victorian respectability.⁴⁰⁷ What we can assume is that as long as a woman was not promiscuous when drunk, and as long as her conduct did not result in the stigma of a prison term, which in turn, as we have seen, often depended on her ability to pay a fine—either that imposed by the policeman confronted by her behaviour, or by a magistrate at the police court, in lieu of a prison term—her reputation would probably have withstood occasions of social drunkenness.

It is possible to assert with confidence that drink was the major cause of female crime in Dundee, and not just a perceived problem. Historians unfamiliar with trial transcripts are often unwilling to accept what middle-class contemporaries said about working-class drunkenness. But as the picture offered by the court records is supported by accounts in the press and a variety of other local and national sources there is more than enough evidence to show that, as De Groot observes, ‘Blighty did have a drink problem’.⁴⁰⁸ In Dundee alcohol dominated working-class culture and the many opportunities for obtaining drink from pubs, licensed grocers and shebeens, as well as the formal and informal credit facilities available, partly explains how women accessed the drink that was usually implicated, directly or indirectly, in their arrest.

Commentators had long blamed social factors for the city’s ‘unenviable record’ for drunkenness and were convinced that alcohol was used as an escape; their theory has

⁴⁰⁷ Davies, *Leisure, Gender and Poverty*, p. 61.

⁴⁰⁸ Gerard J Degroot, *Blighty: British Society in the Era of the Great War* (London, 1996), p. 237.

stood the test of time.⁴⁰⁹ This chapter has shown that there were plenty of reasons why women might turn to drink to drown their sorrows. In his social history of Scotland Campbell uses the number of pawnshops and the level of infant mortality to measure poverty.⁴¹⁰ Both were significant in Dundee. The latter was the inevitable adjunct of the shameful housing conditions. The slums of Hawkhill, Hilltown, Overgate and Scouringburn are mentioned repeatedly in the crime archives. This is not surprising as modern sociological research shows that any environment that imposes continued stress on an individual invites the risk of both heavy drinking and violence.⁴¹¹

To continue with the sociologist's trajectory, because there was little to differentiate between male and female offending in the period of this research, the same explanatory principles should be relevant to explaining the criminality of both sexes.⁴¹² But as we shall see in Chapter 4, women attracted more opprobrium – since they alone broke societal norms. Before turning to the feminine tropes of the period, we must outline the principal characteristics of the women who typically came before Dundee's Police Court.

⁴⁰⁹ Modern scholars find that women turn to drink and drugs to escape their sense of futility with a desperate life situation, for example, Johnson, 'Getting the Facts Straight', p. 30.

⁴¹⁰ Campbell, *The Rise and Fall of Scottish Industry*, pp. 203, 210.

⁴¹¹ Contemporaries also saw the close association between slum conditions and heavy drinking, for example George P Dale, 'Moral Prophylaxis: Prostitutes and Prostitution', *The American Journal of Nursing*, 13 (1919), p. 24.

⁴¹² Ronald Blackburn, *The Psychology of Criminal Conduct: Theory, Research and Practice* (Chichester, 2005), pp. 39-40.

Chapter 3

Mill Workers, Prostitutes and the Women of ‘No Trade’: The Profile of Dundee’s Female Offenders

3.0 Introduction

The traveller arriving in Dundee from the south passes over the river Tay. Should they scan the water’s edge they will notice the old redbrick wharves and warehouses that are a reminder that this was once a thriving port. No clue survives that at the turn of the century every other building on Dock Street was a public house and that on Saturday nights drunken men and women blocked the pavement.⁴¹³ Neither does any clue survive of the Royal Arch, the grand gateway that once welcomed sailors to the city; it was demolished in the 1960s to make way for the road bridge.⁴¹⁴ It was in the shadows of the Royal Arch that some of the women most frequently convicted of brawling and theft were found. They continue to stand half-hidden in the archives, as contemporaries were complicit in their concealment. There is, however, a short series of police reports, published between the years 1868–1877, that reveals their importance to the study of the history of female criminality in the city. While we know that the police records refer to those who interacted formally with the criminal justice system and that they contain no trace of the considerable amount of offending that remained unreported, the data on the occupation of the women ‘apprehended or cited and brought before the Dundee Police Court’ is nevertheless the obvious place to start looking for those typically convicted of petty crime.⁴¹⁵ In trawling these

⁴¹³ David Barrie writing in 1890 cited in Hartwich, *Ale an A’thing Aspects of the Grocery and Licenced Trades in Dundee 1800–1950*, p. 26.

⁴¹⁴ For pictures see Lorna Macintyre and Peter Adamson, *Dundee: Portrait of a City* (St Andrews, 2006).

⁴¹⁵ *PoR*, 1869–1875.

documents we catch a glimpse, as Table 3.1 shows, of the prostitutes lurking at the harbour:

Table 3.1: Occupations of Dundee’s Female Offenders 1869–1875

Most common occupations of known female offenders	1869	1871	1873	1875
Lodging house keeper	28	12	4	3
Mill worker	676	563	573	654
Prostitutes	375	377	416	600
No Trade	1469	1289	1297	1296

From: *PoR*, 1869–1875.⁴¹⁶

The police listed around 130 trades, for the most part alphabetically, in their annual reports between 1868 and 1877. The surviving statistics, relating to an amalgam of female habitual and casual offenders, provide a clear statement that a trio of occupations accounted for over 90 per cent of the petty offences committed in Victorian Dundee.⁴¹⁷ The police classified the women responsible for the *majority* of both property and disorder offences as ‘prostitutes’, ‘mill workers’ and of having ‘No Trade’.⁴¹⁸ The next most numerous category of female offender was the ‘lodging house keeper’, but, as Table 3.1 indicates, they were a long way behind ‘mill workers’, ‘prostitutes’ and the women of ‘no trade’. As the latter were the city’s most prolific offenders it will be necessary to focus at length on this cohort of women, and in Section 3.3 we will do just that. But before then it is the prostitutes and the mill

⁴¹⁶ See Appendix 3.1 for a fuller set of figures.

⁴¹⁷ The information concerning the defendants’ occupation was only gathered for a few years at the beginning of the period and there are few police records distinguishing the habitual from the casual offender.

⁴¹⁸ *PoR*, 1869–1877, Appendix 3.1. Unsurprisingly, given their low numbers, domestic servants barely feature in the crime documents. There were other female occupations in Dundee in jam making and fish selling but as they appear infrequently in the crime records they are not discussed here.

workers that require our attention and their association with theft and drunkenness is considered in Sections 3.1 and 3.2.⁴¹⁹

A critical reading of the police evidence shows that there was frequently no division between mill workers and prostitutes. Indeed, it is important to remember, a number of combinations are found in the records: mill worker-prostitutes, 'No-Trade'-prostitutes, prostitute-thieves, prostitute-drunk and disorderlies, as well as violent prostitutes. Yet it is essential to deal with the prostitutes separately as this is the only way to grasp that in Dundee, as studies elsewhere have established, prostitution offences probably constituted an overwhelmingly large proportion of women's crimes.⁴²⁰ And as with the existing work, it is the ordinary and impoverished prostitutes that concern us, for the women who serviced the upper classes are not apparent in the city's archives. What is different, however, is that while the majority of historical studies appear to concur with the criminologists' view that crime is predominantly a pursuit of youth,⁴²¹ the Dundonian evidence makes it plain that it was adult women who were most frequently convicted, as the graph illustrates (Figure 3.1).⁴²² Unfortunately the data is insufficient to support the analysis of life cycles and

⁴¹⁹ Here we focus on the occupational profile of Dundee's female offenders. There has not been the opportunity to discuss their marital status or their nationality. The latter is particularly unfortunate because there is a prevalence of Irish surnames in the court reports and elsewhere the Irish were over-represented among female offenders: Macilwee *The Liverpool Underworld*, pp. 103, 51, Dodge, *Whores and Thieves*, p. 6.

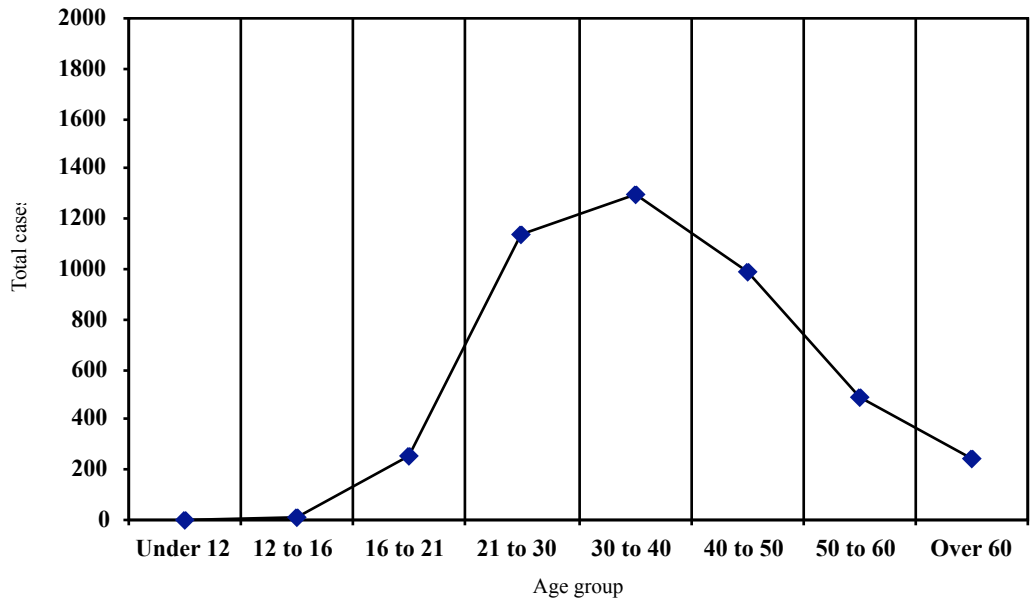
⁴²⁰ Constance, 'Nineteenth-Century Canadian Prostitution Law', p. 397, for latest see Taylor, *Hooligans, Harlots and Hangmen*, p. 103.

⁴²¹ Alison J E Arnott, *The Scottish Criminal* (Edinburgh, 1970), p. 128, James McGuire, *Understanding Psychology and Crime: Perspectives on Theory and Action* (Berkshire, 2005), p. 6, King, 'Female Offenders, Work and Life-Cycle Change', p. 64.

⁴²² Police and judicial leniency undoubtedly caused an under-recording of adolescent crime but not sufficiently so to undermine the finding that the majority of offenders were adults.

criminality. Because the police made no distinction between defendants aged 21 to 30, and those between 31 and 40 years, all we can say is that female offenders usually belonged to the 21– 40 cohort (see Appendix 3.2). Pertinently, with all the figures the contemporary experts had to hand, a Scottish crime commission similarly concluded, in 1894, that persistent female offenders were most likely to be aged between 20 and 40 years, as Table 3.2 below shows:

Figure 3.1: The Age of Women Convicted of Drunkenness and Drunk and Incapable in Dundee



From: *PoR*, 1876–1877, 1881, 1897, 1904.

Table 3.2: Age of Female Offenders Accused of Loitering, Disorderly Conduct and Drunkenness in 1874 in Scotland

	LOITERING AND IMPORTUNING OF PASSENGERS	DRUNKENNESS	DISORDERLY CONDUCT
10–15	0	0	1
15–20	4	26	186
20–25	32	106	286
25–30	39	122	238
30–40	8	121	208
40–50	2	102	113
50–60	2	68	85
60+	0	19	12

From: *RHO* Appendix xiv.

In this study several pages of police statistics have been condensed into a handful of percentages. This is because the information concerning the defendants' occupation was gathered for less than a decade at the beginning of our period, and so there is simply not enough of it to justify detailed statistical analysis. What is more, we only have records of those processed as offenders by the Dundee criminal justice authorities. Those who committed crime but remained unknown to the police are absent from the figures. Because the judicial statistics provide a very incomplete picture of women offenders we must be suspicious of quantitative measurements taken from the arrest data, especially given that the small numbers of female offenders means any movement in the figures will translate into a large percentage change and potentially lead to an erroneous interpretation of the criminal trends. Where calculations do appear in this chapter they provide the background for the court and select committee reports that, it is suggested, afford the greatest insight into the typical defendant's profile.⁴²³ Of course the qualitative data is affected by the dark figure too. We can be sure that in the six decades of this research there were always

⁴²³ Other recent studies concerned with qualitative measurements include Bright, 'Loafers Are Not Going to Subsist Upon Public Credulence', p. 39.

perpetrators absent from the line-up of suspects that it is our job to interrogate. This though is the challenge of establishing the genuineness of the evidence to which G. R. Elton refers.⁴²⁴ We can stalk our women through Dundee's narrow streets and catch the echo of their curses and laughter if we are willing to read widely. And we can discern them in the shadows of the Royal Arch if we are willing to train our eye to pick out their slightest movements.

3.1 'A Perpetual Nuisance': Prostitutes and Crime

The purpose of this chapter is to identify Dundee's typical offenders and to explain and contextualise their criminality. Prostitutes will make several appearances; in the first instance we shall establish their disproportionate involvement in crimes of theft and drunken disorder and later it will be shown they were also strongly associated with recidivism. We begin by asking the police records to provide us with an impression of the prostitutes' proclivity to break the law, only to proceed to wholly undermine the answer, on the basis that the authorities could not possibly have known the true extent of prostitute-related crime in the city.

According to the figures gathered by the Dundonian Constabulary, around 20 per cent of female offenders, known to the police between 1869 and 1877, were prostitutes. But this aggregate does not sit well with the low importuning statistics discussed in Chapter 2, since they indicate that street prostitution was not perceived as a problem in the city.⁴²⁵ In fact, as the study develops we shall see that in other archival sources prostitutes are strongly associated with crime. For now though we shall discuss

⁴²⁴ Elton, G R, *The Practice of History*, 2nd edn (Oxford, 2002), p.67.

⁴²⁵ See Section 2.1. The fact that prostitutes are associated with crime in the occupation returns suggests that the offending group is large.

several reasons to regard the Constabulary's figure as a serious underestimate of prostitute-miscreants.

Perhaps a prisoner would confess to being a prostitute if her defence to a charge of theft, for example, was that the items were not stolen, but had been given to her in exchange for sex. Otherwise it is doubtful that any woman would admit to selling sex as readily as she would claim to be earning a respectable living in the city's textile trade.⁴²⁶ If the police provided the information the figures would still under-record the number of streetwalkers apprehended; for in Scotland, unlike England, it was only after police surveillance and several formal cautions that a woman was labelled a prostitute.⁴²⁷ This is illustrated by the 1875 occupation returns since a 'mill worker' was cited for 'importuning' along with 'prostitute[s]'.⁴²⁸ The historian Susan Grace suggests that where women were able to supply the police with an occupation their prostitution may have remained hidden from the records.⁴²⁹ Indeed, it seems the police did not categorise Sarah Brown and Catherine Grant, women convicted of assault and robbery, as prostitutes, since both claimed to be textile workers and, according to their court papers, neither had previous convictions for soliciting.⁴³⁰ Because streetwalking was a transient activity for the majority of women, some of the offenders the

⁴²⁶ Attwood observes women rarely used the word 'prostitute' to define themselves: *The Prostitute's Body*, p. 14. Only 1 in 10 women admitted into Glasgow's Lock Hospital in the 1870s gave prostitute as occupation, cited in Mahood, *The Magdalenes*, p. 127.

⁴²⁷ Roger Davidson and Gayle Davis, "'A festering sore on the body of society': The Wolfenden Committee and female prostitution in mid-twentieth-century Scotland", *Journal of Scottish Historical Studies*, 24 (2004), pp. 82-83.

⁴²⁸ *PoR*, 1875, p. 10.

⁴²⁹ Grace, 'Female Criminality in York and Hull', p. 197.

⁴³⁰ *WN*, 16 September 1865.

authorities enumerated as non-prostitutes will have sold sex unbeknownst to the police.⁴³¹

A comparison with the previous non-Dundonian studies provides another hint that the local police statistics probably underestimate the prevalence of prostitute-miscreants. Jones found that between 30 and 50 per cent of all females taken into custody in Victorian Manchester were described as prostitutes and, having trawled the Irish records from the decades before the First World War, Boyle concludes that prostitutes constituted the majority of the female prison population.⁴³² We shall see later that there is reason to believe that the same might have been true in Dundee, at least where habitual offenders were concerned. For now we need to focus on demonstrating that prostitutes probably committed a disproportionately large proportion of Dundonian crime. This is not a picture that is immediately obvious; rather it will build in layers as the study develops. To validate the analysis it is essential to know the size of the city's prostitute community, on this though the evidence is hopelessly weak. As Miss Lily H. Montagu observed of English cities, in 1904, 'no one' could 'claim knowledge enough to estimate with any certainty' the extent of prostitution.⁴³³ Still, it

⁴³¹ Clayton, 'The Life and Crimes of Charlotte Walker', p. 9, Davies, *Secret Sins*, p.162, Jones, *Lancashire Lasses*, p. 48.

⁴³² David Jones, *Crime, Protest, Community and Police in Nineteenth-Century Britain* (London, 1982), p. 165, Boyle, 'Women and Crime in Belfast', pp. 184, 206 and Grace also argues that a 'fairly high proportion' of prostitutes were charged with crime: 'Female Criminality in York and Hull', p.195. Newby believes that in the nineteenth century prostitutes were the largest group of female criminals: *Womens' Lives*, p. 139. Indeed Glasgow police returns a show high level of recorded thefts by 'prostitutes': Goldsmith, 'The Development of the City of Glasgow Police', p. 202. Approximately 16% of female prisoners in Galway Gaol 1878–1892 were similarly described: Curtin, 'Female Prisoners in Galway', p. 180.

⁴³³ Lily H Montagu, 'The Girl in the Background' in Urwick, *Studies of Boy Life*.

is only by attempting to approximate the numbers of streetwalkers that their proclivity for crime can be understood.⁴³⁴

3.1 a) There Were ‘More Than 2000 Fallen Women’

Providing an estimate of the number of prostitutes is acknowledged to be difficult because a number of complex and contradictory factors that have to be taken into account. In the first place, contemporaries used the relevant language loosely. An example of the difficulty with the terms, encountered in the primary sources, is that an unmarried woman who had given herself up to one man, O’Neill suggests, was morally indistinguishable from a ‘whore’ who slept with ten different men every day.⁴³⁵ And all the women who transgressed the sexual norms by having illegitimate children were at risk of being branded a prostitute.⁴³⁶ However, notwithstanding the ambiguity of the language, because there was a strong market for sex in resort and port towns, we would expect there to be a large number of prostitutes in Dundee. Indeed, in 1913 Chief Constable Carmichael remarked that women came to the city to prostitute themselves around the harbour.⁴³⁷ That said, Dundee was a port dominated by the manufacture of jute, and the textile industry may have limited the scale of the sex trade. D’Cruze and Jackson argue that textile towns had the *lowest* numbers of prostitutes, as factory work was readily available to women. Elizabeth Langdon is another who believes that when economic opportunities were available outside the

⁴³⁴ It is not only historians who struggle with estimating numbers, modern criminologists have difficulty detecting the extent of prostitution, Johnson, ‘Getting the Facts Straight’, p. 29.

⁴³⁵ O’Neill, *Crime City*, p.125.

⁴³⁶ Sturma, ‘Eye of the beholder’, p. 6, Butler, *Daughters of Joy*, p. xvi, Littlewood and Mahood, ‘Prostitutes, Magdalenes and Wayward Girls’, p. 162.

⁴³⁷ *S’mán*, 14 May 1913

home women were less likely to engage in prostitution.⁴³⁸ On the other hand, in Dundee it is possible that the jute trade may have been a major factor inducing women to sell their bodies.⁴³⁹

As we know, the vast majority of Dundee's female jute workers received very low wages, added to this there were regular periods of short-time and unemployment. Viewed from this perspective it is unsurprising that, in 1894, Chief Constable Dewar was of the opinion that women took to the streets for economic reasons.⁴⁴⁰ And in 1899 an argument was made in favour of a labour bureau for the city's jute women, on the basis that they should not have to wander from mill to mill looking for work because, in doing so, they faced 'dangers and temptations'.⁴⁴¹ Similarly, a 'special lady commissioner' observed, in 1903, that '[d]uring a period of dull trade ... she came across not a few women out of work and on the brink of starvation – or something worse'.⁴⁴²

In Glasgow investigators found that during the depression of 1910 10,000 women worked 'wholly or partly' as prostitutes. Their investigation unfortunately did not include Dundee.⁴⁴³ References to the number of prostitutes in the city have, however, been found in the local press.

⁴³⁸ *Women, Crime and Justice in England*, p. 68. Langdon 'Female Crime in Calgary 1914–1941', p. 307.

⁴³⁹ Gilfoyle, *City of Eros*, p. 59

⁴⁴⁰ *RHO*, 12, 822

⁴⁴¹ *Piper* 23 June 1899

⁴⁴² *DYB*, 1903, p. 155

⁴⁴³ *PJ*, 30 April 1910, 14 May 1910.

An anonymous commentator, whom *The Courier* believed knew the subject well, said there were ‘more than 2000 fallen women’ in Dundee in 1893.⁴⁴⁴ Other records suggest that between 1865 and 1925 approximately 3 per cent of Dundee’s female population, or approximately 2,500 women, were at any one time engaged in prostitution on a regular basis.⁴⁴⁵ This was a period when around 4000 sailors were paid off annually at Dundee’s docks; many of whom we may assume sought to buy sex while on shore, and extreme poverty (as we know from Chapter 2) defined a large proportion of the population. On the basis of both guesstimates it seems that prostitutes were around seven times more likely to be cited for a crime than their position in the city’s female population statistics would predict.⁴⁴⁶ As we shall see next, the court records appear to confirm that Dundee’s prostitutes were indeed ubiquitous thieves and persistent drunks.

3.1 b) ‘She Took Him to Temple Lane. Subsequently he Missed his Money’: Prostitution and Theft⁴⁴⁷

Reverend J. W. Horsley observed of London, in 1913, that ‘vice is to be found in the streets, if you search for it and know where to search’.⁴⁴⁸ Nevertheless, and despite knowing where to look, historians find prostitution a difficult area to study. Poor

⁴⁴⁴ *C*, 23 September 1893.

⁴⁴⁵ *PJ*, 28 October 1922, 13 July 1872.

⁴⁴⁶ According to the 1871 census Dundee’s female population was around 68,119, by the 1901 headcount the figure was 89,106. In light of this, and given that 85 per cent of Dundonian women aged between 15 and 24 years—the cohort most likely to engage in prostitution—were poorly paid textile workers, it is reasonable to estimate that on average around 2,500 women a year, or 3 per cent of Dundee’s female population, fought poverty by selling their bodies.

⁴⁴⁷ I would like to thank Richard Mc Mahon and Susan Grace for their comments on an earlier draft of this section.

⁴⁴⁸ Cited by Petrow, *Policing Morals*, p. 146.

women bound to socially unacceptable activities typically leave few records,⁴⁴⁹ and many of the accounts that were written are suffused with exaggeration, muddle and prejudice.⁴⁵⁰ The reconstruction of prostitutes' experiences is hampered by myth,⁴⁵¹ Dundee's High Court case papers, however, preserve the voices of some of the city's prostitutes, and it is their testimonies that provide the clearest extant picture of the relationship between prostitution and theft in Dundee.

Janet Thompson in 1882, for example, 'met a man in Union Street'; they went to a public house, and afterwards 'walked down the shore'. It was here, she told the procurator fiscal, 'I allowed him to have a connection with me'. She was convicted for stealing the man's tiepin, which she was wearing at the time of her arrest.

Although historians note that prostitutes were, on occasion, cheated out of their money,⁴⁵² and victims may have taken advantage of the bad reputation of a brothel to claim they had suffered a theft,⁴⁵³ Dundee's High Court judges were unconvinced by the recidivist's claim that the pin was the man's pledge to return to pay what he owed.⁴⁵⁴ Neither did they believe the defendant who told the procurator fiscal that the jacket and vest she was charged with stealing had been given to her by the soldier in exchange 'for being in my company'.⁴⁵⁵ And other prisoners unsuccessfully declared

⁴⁴⁹ David McCreery, '“This Life of Misery and Shame”: Female Prostitution in Guatemala City, 1880–1920', *Journal of Latin American Studies*, 18 (1986), p. 348.

⁴⁵⁰ For an important discussion of the difficulties see Gilfoyle, 'Prostitutes in History', p. 138, Jerry White, *London in the Nineteenth Century: A Human Awful Wonder of God* (London, 2008), p. 297, Slater, 'Prostitutes and Popular History', p. 28.

⁴⁵¹ Attwood, *The Prostitute's Body*, p. 17.

⁴⁵² Donald Thomas, *The Victorian Underworld* (London, 1998), p. 96, Clement, *Love for Sale*, pp. 91, 96.

⁴⁵³ Shore, 'The Reckoning', p. 413.

⁴⁵⁴ JC26/1882/69.

⁴⁵⁵ JC26/1876/65. Some prostitutes would make arrangements to live with a sailor and when his money ran out they would move on as the extract that opens Chapter 5 demonstrates. For similar evidence: Macilwee, *The Liverpool Underworld*, p. 259.

that when their accusers ‘had got what [they had] wanted’ they had tried to recover their purses.⁴⁵⁶

Since at least the eighteenth century, when prostitutes were found with the personal possessions clients had reported stolen, it was usual for them to insist the items had been honestly obtained.⁴⁵⁷ An exchange of money or property, a meeting at the harbour, a drunken sailor or commercial traveller, the loss of pocket-watches, purses and clothes during assignations in dark stairways, cramped rooms, and the most disreputable streets of the city, are in fact recurring themes in the trials of the habitual and violent female thieves tried at Dundee’s High Court.⁴⁵⁸ These themes have also been identified in European, North American and African studies of women working in prostitution.⁴⁵⁹ As we shall see, the patterns identified in Dundee’s High Court archive provide the key framework for identifying prostitute offenders tried at the city’s police court.

⁴⁵⁶ JC26/1870/60, JC26/1875/17, JC26/1870/6, JC26/1885/31.

⁴⁵⁷ Clayton, ‘The Life and Crimes of Charlotte Walker’, p. 13.

⁴⁵⁸ A selection include JC 26/1870/64, JC26/1895/9, JC26/1885/31, JC26/1865/101.

⁴⁵⁹ Durston, *Victims and Viragos*, p. 199, Finnegan, *Poverty and Prostitution*, Walkowitz, *Prostitution and Victorian Society*, Jones, *Crime in Nineteenth-Century Wales*, Clayton, ‘The Life and Crimes of Charlotte Walker’, p. 134, Palk, *Gender, Crime and Judicial Discretion*, James Walvin, *Leisure and Society 1830–1950* (London, 1978), p. 44, Backhouse, *Petticoats and Prejudice*, p. 231, Thomas, *Victorian Underworld*, p. 99, Butler, *Daughters of Joy*, pp. 57-58, Luddy, *Prostitution and Irish Society*, pp. 46, 53, Lee, ‘Regulating Prostitution in Nineteenth-Century Kent’, p. 95, Jill Harsin, *Prostitution in Nineteenth-Century Paris* (Princeton, 1985), p. 169, Hallie Rubenhold, *The Convent Garden Ladies: Pimp General Jack and the Extraordinary Story of Harris’s List* (Stroud, 2005), p. 291. Prostitute-thieves were known as ‘badgers’ in the United States: O’Faolain, *The Story of Chicago May*. As far as I can tell the term was not used in Britain.

In twenty-six of the eighty-one high court cases analysed in detail for this study the defendant appears to have been a prostitute-thief.⁴⁶⁰ While this was a characteristic that they had in common, the records also chart that there were considerable differences in the nature of their crimes. Some stole property of considerable worth, and appear to have made their living from theft, others it seems stole to feed a drink habit. We will refer to the diversity of Dundee's female offenders again, for now our concern is to determine the extent to which prostitutes dominated the city's crime records. Since forty-one of the trials, in the high court sample, concerned women who had a string of convictions for the larceny of domestic items, it appears streetwalkers were not the primary culprits for property crime (Figure 3.2).⁴⁶¹ And yet prostitute-thieves may have been more prevalent offenders than the statistics suggest, for in fourteen of the cases studied (17 per cent), the women refused to make a declaration to the procurator fiscal, and in so doing denied the historian an account of the

⁴⁶⁰ That is, 32% of the thefts appear to be related to prostitution. The High Court records (JC26 series) include a copy of the indictment (setting out the charges against the accused), witness accounts, confessions and other information about the accused and their alleged crime. Some case papers contain the 'declaration' given by the accused to the procurator fiscal (usually Dundee's chief constable or a judge from the sheriff court). The procurator fiscal gathered the pre-trial evidence, (precognitions) concerning the crime to send to the Lord Advocates' Department (Edinburgh) where it was used to decide whether a prosecution should be brought and, if so, in which court. All serious offences were likely to be tried at the high court. However, if on the basis of the preliminary evidence, the Crown Office stated the prosecution should take place at the sheriffs' court they would add whether this would take place on indictment or summarily. For information see www.nas.gov.uk and Crowther, 'The Criminal Precognitions', pp. 75-92; Donnachie, 'Profiling Criminal Offences', pp. 85-92, Hughes, 'The 'Non-Criminal' Class', p. 32 and Duncan, *Student's Glossary of Scottish Legal Terms*.

⁴⁶¹ Nevertheless it is clear that 73% of the recidivist-thieves tried at the high court had not been charged with crimes suggestive of prostitution. Of the ten most serious recidivists tried at the high court only one was a prostitute-thief. Margaret McDead or Robertson JC26/1874/9 out of JC26/1874/6, JC26/1881/4, JC26/1865/106, JC26/1866/20, JC26/1868/60, JC26/1870/22, JC26/1870/61, JC26/1872/20, JC26/1874/22.

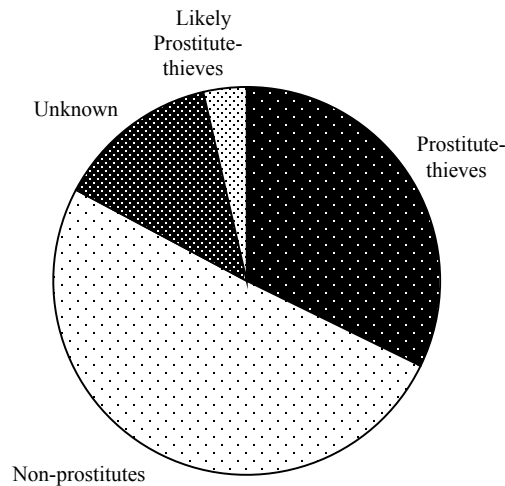
circumstances of the theft for which they were imprisoned.⁴⁶² As at least three of these cases involved the theft of watches and purses from men, it is reasonable to suppose that at least 35 per cent, or one third, of thefts tried at Dundee's High Court may have involved vice.⁴⁶³

Because the high court dealt only with the very small proportion of crime that was deemed serious, it is necessary to turn directly to the police and sheriff court archives in order to verify the criminality of prostitutes. But since the original court papers have not survived we must pursue the prostitute-offender through the columns of the newspaper court reports. We can catch sight of them by looking for the themes we have identified in the high court archives: the theft from a sailor or commercial traveller, the loss of pocket watches, purses and clothing in the city's most disreputable streets and circumstances involving drink. We also learn to recognise prostitute offenders in the descriptions provided by local journalists by studying the context provided by the York and Kentish press, and this involves becoming conversant with the language of euphemism. Once we know how to recognise the archetype prostitute offender, our eye can find the repetitive patterns in Dundee's police-court columns. Given the gaps in the local sources this seems the only way to gain an impression of the frequency with which prostitutes, charged with drunkenness, disorder and theft, appeared before the city's magistrates.

⁴⁶² Defendants variously claimed they had 'no recollection' of what happened, 'knew nothing', or pleaded 'not guilty' and so no account of the background circumstances is provided. For example, JC26/1866/60, JC26/1882/12, JC26/1874/6.

⁴⁶³ The indictments reveal the theft of watches and purses from men in JC 26/1876/1, JC 26/1874/19, JC26/1874/9.

Figure 3.3: Proportion of Prostitute-Thieves and Common Thieves in a Sample of Dundee's High Court Papers, 1865–1908



From: JC26 1865–1908: out of 81 cases 26 prostitute-thieves, 41 domestic thieves, 14 non-declarations of which 3 were probably prostitute-thieves.

3.1 c) 'Land Pirates', 'A Street Porter's Harem' and 'Disgraceful Scenes': Reading Dundee's Court Records

In her study of prostitution in Victorian York, Finnegan uses newspaper reports of crime as the main source of evidence of prostitutes stealing from their clients. Readers, she observes, were left in no doubt as to the defendants' occupation, particularly as many of the offences were described as occurring in brothels. York journalists were hugely interested in recounting the details of sexually-related offences. Consequently, Finnegan notes, prostitute-related crimes were 'religiously reported', with sometimes as many as fifteen to twenty streetwalkers listed per week. The women were described as 'unfortunates', 'fallen', 'abandoned', and 'of ill repute'; adjectives commonly applied to prostitutes in Britain since the eighteenth

century.⁴⁶⁴ On the basis of her scrutiny of York's detailed press reports, Susan Grace claims that over a quarter, and possibly up to a half, of the female pairs of offenders charged with larceny involved prostitutes.⁴⁶⁵ No such findings are possible from Dundee's qualitative evidence.

During the Edwardian era the space Dundee's newspapers devoted to advertising increased, and the column inches allocated to the coverage of crime shrank dramatically. While the most sensational cases from around the Empire were reported in great detail, local miscreants and stories of sexual scandal were largely absent from its pages. That said, even analysing Dundee's press from 1875–1905, when court reporting was at its height, is problematic. Out of a study of several hundred headlines concerning female offenders, a mere handful are similar to those regularly printed in Victorian York: 'A ploughman relieved of his watch by a Dundee nymph' in 1887, for example, and 'A light-fingered nymph', published seven years earlier.⁴⁶⁶ It is telling that the dexterous Catherine Cleary or Donnelly stole one pound notes and eight half sovereigns 'on Wednesday night or Thursday morning', as the press provides neither details of her victim, nor the location of her crime. 'Nymph', of course, has a sexual connotation, and elsewhere prostitutes were referred to as 'nymphs of the pave'.⁴⁶⁷

⁴⁶⁴ Finnegan, *Poverty and Prostitution*, pp. 118, 27, 213, 12, similarly Fleming, 'Public attitudes to prostitution', p. 2.

⁴⁶⁵ Grace, 'Female Criminality in York and Hull', p. 195: 'female only pairs' of offenders is the phrase Grace uses to describe when a theft was committed by two female co-defendants.

⁴⁶⁶ *WN*, 26 July 1887, 7 February 1880, *C*, 13 September 1892, 11 November 1892.

⁴⁶⁷ Finnegan, *Poverty and Prostitution*, pp. 89, 118. 'Nymph' was in fact used in Georgian Britain to refer to a prostitute: Rubenhold, *The Convent Garden Ladies*, p. 15.

The analysis of Dundee's Police and Sheriff Court reports clearly illustrates that there is no consistent relationship between crime news in newspapers and local crime rates.⁴⁶⁸ Contemporaries were well aware that prostitute-thieves were active around Dundee's harbour. In 1872, for example, several commentators expressed the urgent need for a sailors' home. The archives record that around this time *scores of eyewitnesses* claimed that the fate of the sailor was to be found naked and destitute in the street, the morning after his arrival in Dundee – an indication of the proclivity of prostitutes and pimps to rob sailors of all they possessed.⁴⁶⁹ Indeed, it is recorded that some seafarers were relieved of their clothes and wages, at the hands of 'crimps and their associates', within hours of being onshore.⁴⁷⁰ Notwithstanding the newsworthiness of stories concerning naked sailors at the docks in which journalists elsewhere would have surely revelled,⁴⁷¹ journalists in Dundee acknowledged in only the discreetest of terms that prostitutes and pimps had formed the sailors' welcoming party. For example, *The Weekly News* reported that seafarers, 'flush with cash', were apt to fall prey to the shoal of 'land pirates' and 'land rats' 'that soar about the vicinity of the Harbour'.⁴⁷² The crucial difference between Dundee's High-Court declarations and the trials reported in the city's press is that the former recorded private conversations between the female defendant and the procurator fiscal, while the latter was intended for public consumption. As Foyster and Snell emphasise,

⁴⁶⁸ Esther Snell has recently argued, in a different context, the weakness of newspapers as barometers of crime: 'Discourses of criminality in the eighteenth-century press: the presentation of crime in *The Kentish Post*, 1717–1768', *Continuity and Change*, 22 (2007), p. 27.

⁴⁶⁹ *DA*, 29 June 1872.

⁴⁷⁰ *PJ*, 13 July 1872, 3 June 1905. The same language is used to describe those who targeted sailors in Liverpool: Macilwee, *The Liverpool Underworld*, p. 145.

⁴⁷¹ York has already been discussed. For the tendency of the press to overemphasize crimes of indecency and violence: Jason Ditton and James Duffy, 'Bias in the Newspaper Reporting of Crime News', *British Journal of Criminology*, 23 (1983), p. 159.

⁴⁷² *WN*, 4 March 1887, *C*, 20 April 1888.

newspapers were professional businesses, and editors needed to be alert to their readership's sensitivities.⁴⁷³

It seems that, unlike their counterparts in England, Dundee's editors were squeamish about making direct references to loose women. George M. Dale, in 1911, wrote of American attitudes towards prostitution: '[w]hen the social evil is mentioned society stops its ears or runs away from the issue altogether'.⁴⁷⁴ This seems to have been the general Dundonian response. Reporting on the proceedings of the Sailors' Home Society, Dundee's press cited the witnesses who spoke of the 'misery and sin', the 'dens of infamy' and the 'haunts of vice' in the lower parts of the city, but there is a noticed omission when it comes to descriptions of the sailors' assailants.⁴⁷⁵ Equally the press did not specify the content of the 'deplorable revelations', heard by magistrates in 1913, concerning prostitution around the harbour, which would have surely provided another statement the active nature of Dundee's vice trade.⁴⁷⁶ In fact, other than the infrequent allusion in the police court columns to women 'loitering in the street', the annual mention of the accounts of Dundee's prostitute refuge and the

⁴⁷³ Foyster, 'Introduction: Newspaper reporting of crime and justice', p.11, Snell, 'Discourses of criminality', p.17. In Canada too crime reports provided a 'slanted' version of the female defendant's stories fashioned for respectable readers: Sangster, 'Pardon Tales', p.162.

⁴⁷⁴ Dayle, 'Moral Prophylaxis', p. 22. Jacqueline Baker Barnhart suggests that Americans did not want to recognize its existence by reading about it in the press: *The Fair but Fail: Prostitution in San Francisco 1849–1900* (Reno, 1986), p. 1. Nevertheless, the American press did report on prostitute crimes. For the prostitution taboo in Britain: Trevor Fisher, *Prostitution and the Victorians* (Gloucestershire, 1997), p. viii, Cox, *Gender, Justice and Welfare*, p. 38, Davies, *Secret Sins*, p.156, Perkin, *Victorian Women*, p. 230. D'Cruze found a 'remarkable silence' on prostitution in Lancashire court papers but does not say if this was due to reluctance to face the subject: *Crimes of Outrage Sex*, p. 2. Curtin found that Irish newspapers rarely made direct references to matters of a sexual nature in the same period: 'Female Prisoners in Galway', p. 180.

⁴⁷⁵ Lamb 244(12).

⁴⁷⁶ *S'man*, 14 May 1913.

sole appearance of a lady missionary who laboured at night, ‘among fallen women in Dundee’ (she was a witness in a police court trial), the city’s newspapers rarely refer to streetwalkers, dishonest or otherwise.⁴⁷⁷ The euphemisms prevalent in the records of the prostitute refuge: ‘fallen girl’ and ‘immoral life’ are equally rare.⁴⁷⁸ Certainly the language associated with streetwalkers in Yorkshire is to be found: ‘unfortunate’ is widely used, but as will be seen shortly, an absence of innuendo usually characterized its appearance in Dundee’s press.

In contrast to the frankness of *The York Gazette*, it seems Dundee’s journalists preferred to write in code. *The Weekly News*, for example, reported in 1897 that the ‘character’ of a young woman, charged with thieving from a man in circumstances hugely suggestive of prostitution, ‘was not quite up to the mark.’⁴⁷⁹ In 1902 the paper ambiguously recounted the trial of Mary Ann Murphy: she had taken her victim ‘to Temple Lane. Subsequently he missed his money’. As we learn from a witness that the defendant had accosted her victim, a drunken Russian sailor, outside a public house, it is likely that ‘subsequently’ was a euphemism for commercial sex.⁴⁸⁰ A similar subtext is evident from the description of the circumstances that led to Catherine Crow or Coleman’s conviction. The recidivist (who we will meet again

⁴⁷⁷ *WN*, 19 October 1872, 20 July 1872, 6 September 1890. Gordon and Nair mention draconian laws operating on the Scottish press, in the 1850s, that forbade references to sexual matters: *Murder and Morality*, p.141. Occasionally we stumble across women of ‘bad fame’, in a licensing court report: *PJ*, 15 April 1905 and there is also mention of a ‘fallen sister’ in a discussion of the Salvation Army’s work: *PJ*, 17 June 1905. There is a full length report on ‘WHY GIRLS ‘GO WRONG’ PROBLEMS OF THE STREETS’, but rather than discussing Dundee this relates to the work of a home in Edinburgh: *PJ*, 7 May 1910.

⁴⁷⁸ DCA, GD/X406/2/1, Matron’s Diary, Dundee and District Female Rescue Home, 1878–1880 (hereafter Matron’s Diary). I would like to thank Ian Flett and Richard Cullen of Dundee City Archives for introducing me to the sources on prostitution in the archive.

⁴⁷⁹ *WN*, 19 July 1879.

⁴⁸⁰ *WN*, 4 January 1902.

later) and her victim went to a house where, the court heard, '[d]rink ... was procured, and the man stayed for some time. [But] [b]efore leaving, he missed the money'.⁴⁸¹

Despite the apparent fruitfulness of reading between the lines of Dundee's press, the vast majority of crime reports are typically devoid of insinuation or irony, and it is usually the details of the theft that provide the only clue that prostitutes appeared at the bar. While contemporary readers may have needed no more information to deduce the circumstances of the trial, it is important for the historian to be sure their suspicions are justified, and for that we must again look to the circumstances of the theft.⁴⁸² When a man was 'carousing in a house ... [with] some [drunken] young women' the use of 'carousing' suggests they were prostitutes.⁴⁸³ Mrs McKay was brought up for stealing £32 'from a man in a house ... on Friday night or Saturday morning'. The timing of the theft and the vast sum indicates that she was a streetwalker and that her victim was a recently paid sailor or commercial traveller. Similarly, in all likelihood Helen Kane Higgins, who stole a watch from a drunken

⁴⁸¹ *WN*, 13 May 1893, *PJ*, 11 June 1881. It was not unusual for discharged sailors to have in the region of £75 on them. There has not been the opportunity to discuss the interesting topic of the marital status of Dundee's prostitute offenders. Fragmentary evidence suggests large numbers of prostitute-thieves were married. Whether the women were living with their husbands is, of course, a different matter. Finnegan found that in York the majority of prostitutes were single women: *Poverty and Prostitution*, p. 136. In contrast Walkowitz found that in 1914, out of 91 women convicted of prostitution, over half declared themselves to be married: "'We are not beasts of the field'", p. 8. Backhouse too found that in Canada a 'substantial proportion' of prostitutes were married and she speculates that some of their husbands may have been pimps: 'Nineteenth-Century Canadian Prostitution Law', p. 402. In New York mothers with heavy family responsibilities supplemented their family's income by selling sex, Clement, *Love for Sale*, p. 105. Similarly Lee, 'Regulating Prostitution in Nineteenth-Century Kent', p. 78.

⁴⁸² Louise Jackson also believes that the press would not have used coded expressions and euphemisms unless the terms were popularly understood: *Child Sexual Abuse in Victorian England* (England, 2000), p. 55.

⁴⁸³ *WN*, 15 March 1890.

man, and Jessie Stewart, who stole '15s from the person of a man while on a stair ... on Saturday night', were prostitute-thieves given the context provided in the newspaper report strongly hints at a sexual foray.⁴⁸⁴

But there are limits to how far the context can take us. Journalists, inspired by the need for brevity, often removed the vital clues linking thefts with furtive encounters, and in doing so greatly added to the distorted picture of vice crime in Dundee.⁴⁸⁵ The distortion of the reporting explains why, out of a sample of approximately 2,000 individual female crime reports, taken from the period when both court reporting was at its most detailed and up to 130 sailors, paid off after the long voyage to India, arrived *daily* in the city, less than 5 per cent record prostitute or pimp involvement.⁴⁸⁶

Notwithstanding the obfuscatory journalism, there is, however, enough evidence to suggest that there was an under reporting of prostitute offenders tried at the city's police court. The only way to recognise it, though, is with a keen and patient eye. In 1900, for example, a judicial aside highlighted that prostitute-thieves perpetrated a significant volume of thefts. The case concerned a prostitute convicted of stealing £12 from the person of a soldier, and it prompted the magistrate to observe that this was one of '*the usual cases* of a man the worse for drink being taken to a house and pillaged'.⁴⁸⁷ My italics cordon off the crucial clue that there were more prostitute-thieves than a reading of the newspapers suggests. The inordinate discrepancy between the level of vice crime contemporaries *said occurred* around the harbour, and

⁴⁸⁴ *WN*, 13, 27 March 1880.

⁴⁸⁵ See Foyster, 'Introduction: Newspaper Reporting of Crime and Justice', p. 11.

⁴⁸⁶ Lamb 244(12). The reference here is to cases clearly indicative of a prostitute thief.

⁴⁸⁷ *WN*, 7 July 1900.

the amount of coverage given to issues concerning prostitution in the press, is another indication that Dundee's court correspondents were highly selective when choosing which cases to report and that they frequently avoided reporting on vice crimes. In fact, the acknowledgment from *The People's Journal* in 1872, that the public only got 'occasional glimpses' of the crimes committed against sailors, seems to confirm that the published accounts represent only a fraction of the trials heard against prostitutes (my italics).⁴⁸⁸

All of the surviving evidence regarding prostitute-thieves relates to thefts *known* to the police. Scholars agree that only a small proportion of crimes were reported, and the difference between the so-called dark figure and reported criminal incidents is likely to be huge in circumstances of vice. There are several reasons, other than editorial policy, why this should be.

Firstly, as Glasgow's police complained in the 1870s, men were often too embarrassed to report they had been robbed by a prostitute, and where the police had learnt of violent robberies, victims were often unwilling to cooperate with the authorities.⁴⁸⁹ In his defence, one Dundonian man, charged with contempt of court for lying about the circumstances of the theft, said he did not want it to be known that he

⁴⁸⁸ *PJ*, 6 July 1872.

⁴⁸⁹ Mahood, *The Magdalenes*, p. 148. Glasgow's Chief Constable Boyle was clearly referring to prostitute-thieves when he observed, in 1890, that the majority of thefts from the person were 'committed under circumstances which afforded few opportunities to the police either to detect or prevent': cited in Goldsmith, 'The Development of the City of Glasgow Police', p. 206. Similarly, Macilwee, *The Liverpool Underworld*, pp. 161-162, Kilday, 'Women and Crime in South-West Scotland', pp. 165-6. Modern studies have found that even when clients are robbed of considerable sums they are reluctant to come forward because of the inevitable disclosure of their sexual predilections: Susan S M Edwards, *Women on Trial: A Study of the Female Suspect, Defendant and Offender in the Criminal Law and Criminal Justice System* (Manchester, 1984), p. 165.

had been in a brothel.⁴⁹⁰ As previous historians suggest, a victim may have preferred to shrug off the whole sorry incident.⁴⁹¹ And since Dundee was an import harbour, and the seamen discharged from their vessels stayed ‘no longer than three or four days at most’, this was perhaps especially apt of sailor-victims.⁴⁹² Similarly, where the loss was small, and physical injuries had not been inflicted, a client’s fury would probably be outweighed by feelings of humiliation. Victims were also intimidated by threats from pimps,⁴⁹³ while married men would be deterred from raising the alarm by the knowledge that any court proceedings would be reported in their home press.

The most powerful disincentive, though, for making a complaint was probably the difficulty of proving a theft had occurred during assignations with a prostitute, when there was no other witness apart from the victim.⁴⁹⁴ Prostitute-thieves were rarely caught red-handed. In the Temple Lane case, neither the Russian sailor’s purse, nor the accomplice who ran off with it, were traced.⁴⁹⁵ Mrs Hamilton, who was charged with stealing £12 from a soldier, when asked what she had done with the money, told the court that ‘she supposed she had drunk it’.⁴⁹⁶ We will underline the significance of her statement shortly. For our current purposes it is relevant that the historian Mary Clayton recently demonstrated that the reason why Charlotte Walker, one of London’s eighteenth-century prostitute-thieves, got away with thieving for twenty-

⁴⁹⁰ *The Dundee Chronicle* 29 August 1835: cited by Helen Nugent, ‘Poverty and Prostitution in Dundee from 1835–45’, (unpublished MA dissertation, University of Dundee, 1996), p. 25. Clearly prostitution was referred to openly in these years, by our period the *Dundee Chronicle* was no longer in existence.

⁴⁹¹ O’Neill, *Crime City*, p. 135, Murphy, ‘The Private Lives of Public Women’, p. 34 Thomas, *Victorian Underworld*, p. 104, Goldman, *Golddiggers and Silver Miners*, p. 115.

⁴⁹² *PJ*, 13 July 1872.

⁴⁹³ Kilday, ‘Women and Crime in South-West Scotland’, p. 166.

⁴⁹⁴ Clayton, ‘The Life and Crimes of Charlotte Walker’, p. 8.

⁴⁹⁵ *WN*, 4 January 1902.

⁴⁹⁶ *WN*, 7 July 1900.

four years was largely because of the difficulty of proving the charges against her.⁴⁹⁷ The men who had removed, or opened their clothing, or were drunk or sleeping when their possessions were apparently stolen, were all deemed unreliable plaintiffs.⁴⁹⁸ As Heather Shore suggests, prostitutes took advantage of unreliable evidence,⁴⁹⁹ and presumably prostitutes at Dundee's High Court drew attention to the fact that their accusers were 'guy [very] drunk' during the time of the alleged theft in order to highlight the weakness of the evidence against them.⁵⁰⁰ The testimony of men who had been in the company of a number of women in the hours before they noticed their loss was equally distrusted, and so it is pertinent that Dundee's harbour master submitted that drunken sailors were seen being led away from the shore by up to four prostitutes.⁵⁰¹

It is likely that legal proceedings will have been dropped where it was difficult to prove that the sailor had been deprived of money against his will. The Dundonian press observed the 'simple-mindedness' with which 'the sailor *allowed* himself to be fleeced is well known' [my italics].⁵⁰² In one example, replicated in the Thames Police Court, a sailor complained he had lost £14 while under the influence of drink; it transpired he had 'forgotten' to whom he had given the money.⁵⁰³ Indeed, according to the Dundonian evidence the recklessness of 'Jack' while on shore was proverbial: he earned his money 'like a horse' and spent it 'like an ass'.⁵⁰⁴ As has been found

⁴⁹⁷ Clayton, 'The Life and Crimes of Charlotte Walker', pp. 3, 6.

⁴⁹⁸ Ibid., p. 8.

⁴⁹⁹ Shore, "The Reckoning", p. 425.

⁵⁰⁰ For instance, JC26/1885/31, JC26/1874/16, JC26/1885/32, JC26/1882/68, JC26/1870/64.

⁵⁰¹ Lamb 244(12).

⁵⁰² Ibid.

⁵⁰³ *PJ*, 13 July 1872. *The Times* 17 September 1866.

⁵⁰⁴ Lamb 244(12).

elsewhere, it is likely that the local courts and constabulary viewed the strangers who admitted they had gone to the harbour, 'to get a woman,' as deserving of all they experienced there.⁵⁰⁵

As the number of prostitute-thieves apprehended by the police depended on the willingness of victims to report their loss, as well as the weight of the evidence, it is not unreasonable to suppose that the majority of thefts committed by Dundee's prostitutes did not result in a police charge and consequently that the majority of these crimes have been lost to the historian. Still, because we know that a disproportionately large number of streetwalkers were cited for property crime, we can be confident that Dundee's prostitutes were ubiquitous thieves. For a host of reasons it seems that they were not, however, responsible for the bulk of reported larcenies, and it is to non-prostitute thieves that we now turn.

3.1 d) The Diversity of Female Thieves

Both Dundee's High Court records and the crime columns of Dundee's popular press show that opportunistic domestic theft, as explained in the previous chapter, was a fact of life in the city.⁵⁰⁶ Most frequently appearing at the bar were lone defendants, not a pair of miscreants, and it was neighbours, lodgers and family members who were most commonly the victims of theft, not drunken sailors. This aspect of the picture of female crime in Dundee is probably reliable, for, as previous studies have

⁵⁰⁵ JC26/1870/64, Newby, *Women's Lives*, p. 141, similarly Butler, *Daughters of Joy*, pp. 57-58, and proceedings against prostitute-robbers were frequently dropped in North America: *Whores and Thieves*, p. 94. This point will be raised again in Chapter 5.

⁵⁰⁶ See Chapter 2, Section 2.1 c) Petty Theft.

shown, working-class thieves usually plundered clothing and domestic items, rather than pocket-watches and purses.⁵⁰⁷ Despite the potentially greater rewards to be had by catching the eye of a stranger, a large number of the women who were prepared to lift their neighbours' property will have drawn the line at selling themselves. This is especially likely if, as may be presumed, a prostitute-thief began as a streetwalker, and the common thief cut her teeth pilfering doormats in the dead of night.⁵⁰⁸ As O'Faolain highlights, millions of penniless and starving women throughout history have been willing to do anything, anything that is, apart from assail their bodily integrity.⁵⁰⁹ Also, the risks associated with prostitution in the period should not be underestimated. Not only were streetwalkers vilified by and alienated from a society bound by conventions of respectability, but the chances of being beaten by pimps and clients, picking up a disease or of not being paid for their services were all high.⁵¹⁰ Stealing a sheet was easier. And crucially, the opportunities for pilfering domestic items remained more or less infinite in and around Dundee's tenement-slums between

⁵⁰⁷ For example: Palk, *Gender, Crime and Judicial Discretion*, p.58, Grace, 'Female Criminality in York and Hull', p.148, Donnachie, 'The Darker Side', p.11.

⁵⁰⁸ Harsin observes that it was only a small step for a prostitute in Paris, in the first half of the nineteenth century, to become a thief, mixing as she did with other prostitutes and learning how to work the streets: *Prostitution in Nineteenth-Century Paris*, p. 169.

⁵⁰⁹ O'Faolain, *The Story of Chicago May*, p. 83. For Riegel the majority of women would have rather starved than prostitute themselves: 'Changing American Attitudes Toward Prostitution', p. 446. Carl Chunn argues that prostitution was not an option for single women who were part of strong kinship networks. Nor was it a choice open to most married women as 'the strong moral codes of the poor precluded it': *Poverty Amidst Prosperity the Urban Poor in England, 1834–1914* (Lancaster, 2006), p. 51. Writing in 1937, Kingsley Davies noted that the 'hard question' was not why so many women become prostitutes, but 'why so few of them do'. He believed their hesitation was moral: 'The Sociology of Prostitution', *American Sociological Review*, 2 (1937), p. 750.

⁵¹⁰ Perkin, *Victorian Women*, pp. 220–221. Pimps are discussed by Durston, *Victims and Viragos*, p. 201.

1865 and 1925. On the other hand, there was a cap on the number of men, ‘with money, or money’s worth’, reckless and looking for sex.⁵¹¹

In this period 60 per cent of the Dundonian population were women and around 70 per cent of the city’s female population worked in textiles.⁵¹² In 1901, 85 per cent of females aged between 15 and 24 years were textile workers.⁵¹³ As they had suffered short-time and unemployment regularly since the late 1870s we might expect considerable numbers of young women to have turned to prostitution, at least on a part-time basis, in order to avoid destitution.⁵¹⁴ Nonetheless, in addition to factors that would tend to increase the number of prostitutes, there were also forces pulling in the opposite direction. The downturn in the jute trade coincided with a reduction in the prostitute’s potential clients.⁵¹⁵ That is, at the time women’s work in the mills and factories became increasingly uncertain, the number of ships bringing both fresh supplies of raw jute and fresh supplies of newly-paid sailors also declined.

Furthermore, as the period progressed, Dundee suffered even more from its dependence on jute. The new century brought fewer orders for the engineering firms that manufactured the spinning and weaving looms, and they too employed fewer and fewer men, aggravating the city’s demographic and economic imbalance. To add to this sorry mix, Dundee’s whaling industry had already collapsed and its mariners, along with its ship builders, had left for other ports never to return. Although there was an army camp in nearby Angus, unlike Welsh Carmarthen—where the number of

⁵¹¹ Lamb 244(12).

⁵¹² William W J Knox, *Lives of Scottish Women: Women and Scottish Society, 1800–1980* (Edinburgh, 2006), p. 205. Unknown author, *Verdant Works: The Story of Dundee and Jute* (Dundee Industrial Heritage, no date), p. 24.

⁵¹³ The calculation is based on figures from the Dundee Census 1901.

⁵¹⁴ Gilfoyle, *City of Eros*, p. 60.

⁵¹⁵ Laite highlights the importance of considering the number of potential clients: ‘Prostitution in London, 1885–1930’, p. 43.

prostitutes in the town increased whenever the militia were stationed—there is no evidence that in Dundee the number of prostitutes corresponded with troop movements.⁵¹⁶ Thus, during the regular periods of economic downturn during the years of this study, at the time when we would suppose that increasing numbers of women would have sought to make ends meet by prostituting themselves, there would have been reduced opportunities to earn money by selling sex, and as a corollary fewer opportunities for robbing clients. Incidentally, we should also recognise that age and poor health seriously impeded the prostitute's ability to attract punters.⁵¹⁷ The taking of domestic items, however, required neither youth nor charm.

This is not to say that during the long years of economic stagnation Dundonian women were not on the game. On the contrary, anecdotal evidence indicates that until the building of the Tay Road Bridge, in 1963, the harbour remained notorious as a red-light district.⁵¹⁸ In order to complete the investigation of the relationship between prostitution and theft it is necessary to confirm the proclivity of the Victorian and Edwardian streetwalker to steal.

⁵¹⁶ Davies, *Secret Sins*, p. 163. The Barry Camp in Angus was home to around 550 of the 3rd Argyll and Sutherland Highlanders, C, 8 July 1893.

⁵¹⁷ This is revealed in O'Faolain's, *The Story of Chicago May*, p. 260. The bulk of studies find that ageing was a major occupational hazard for prostitutes: Lee, 'Regulating Prostitution in Nineteenth-Century Kent', p. 75, Rubenhold, *The Convent Garden Ladies*, p. 291, Rosen, *The Lost Sisterhood*, p. 100, Barnhart, *The Fair but Fail*, p. 38, Bedford, 'Prostitution in Calgary 1905–1914', p. 8, Butler, *Daughters of Joy*, p. 15, Luise White, *The Comforts of Home: Prostitution in Colonial Nairobi* (London, 1990), p. 7. Historians have found that while the majority of prostitutes were under thirty years there were clearly some older streetwalkers: Clayton, 'The Life and Crimes of Charlotte Walker', p. 15, O'Neill, *Crime City*, p. 138, Perkin, *Victorian Women*, p. 228, Murphy, 'The Private Lives of Public Women', p. 30. Backhouse, 'Nineteenth-Century Canadian Prostitution Law', p. 397.

⁵¹⁸ This is according to Eileen Moran, DLHC archivist, to whom I am grateful for telling me about the harbour's reputation.

3.1 e) Prostitutes and Thieves: ‘Virtually One and the Same’

In 1838, Dundee’s City Mission complained that half of the prostitutes in the city were thieves.⁵¹⁹ In the same year, the Leith police reported that out of a group of fifty women apprehended for soliciting in the town, ten were habitual thieves, while ‘most of the remainder steal when they have an opportunity’.⁵²⁰ In Paris, in the first half of the nineteenth century, prostitutes and thieves were regarded as ‘virtually one and the same’,⁵²¹ and in America some whores, it was said, felt it ‘against their religion’ to let a man away with money still in his pocket.⁵²² O’Neill found ‘[n]early all’ of the prostitutes known to the Manchester police, in 1868 ‘combined theft with selling their bodies’.⁵²³ And it was submitted by Glasgow’s Chief Constable that prostitutes practised ‘their blandishments merely as a decoy and cloak for the purposes of robbery’.⁵²⁴ There is, in fact, reason to believe that some prostitutes identified more with thieving than soliciting. A Salford thief admitted ‘[n]one of the girls’ thought ‘much of prostitution but it furnishes opportunities for robbing men.’⁵²⁵

The evidence also shows that as well as the women who *were* prostitutes, there were women who *pretended* to be prostitutes, and a third group who worked with thieves.

⁵¹⁹ *Third Report of Inspector of Prisons in Scotland 1837-8* cited in Nugent, ‘Poverty and Prostitution’, p. 22.

⁵²⁰ *S’mam*, 28 April 1838.

⁵²¹ Harsin, *Prostitution in Nineteenth-Century Paris*, pp. 150-151.

⁵²² Murphy, ‘The Private Lives of Public Women’, 34, also Butler, *Daughters of Joy*, p. 50.

⁵²³ O’Neill, *Crime City*, p. 127.

⁵²⁴ Cited in Mahood, *The Magdalenes*, p. 143. This was a common view, see also Ginger S Frost, *Living in Sin: Cohabiting as Husband and Wife in Nineteenth-Century England* (Manchester, 2008), p. 135.

⁵²⁵ Cited in O’Neill, *Crime City*, p. 136. Similarly in Clayton, ‘The Life and Crimes of Charlotte Walker’, p. 15, Macilwee, *The Liverpool Underworld*, p. 160.

In Dundee female robbers were frequently prostitutes.⁵²⁶ Women who masqueraded as streetwalkers simply to lure men into dark alleys in order to rob them were obviously thieves first and foremost, and certainly some of Dundee's prostitutes who worked with accomplices did so to steal. For example, Helen Robertson or Henderson 'enticed' her victim into a side street and stole his watch; a passing policeman, on hearing a scuffle, arrived just in time to witness her assistants 'coming out to help her'.⁵²⁷

As streetwalkers earned pitiful sums selling sex we should perhaps not be surprised that the evidence from this study, as well as from previous work, intimates that they routinely stole from clients.⁵²⁸ Indeed, it is doubtful that once a prostitute had made more money robbing a client than she had from selling sex alone that she would desist from the more profitable activity. On this basis, and considering the size of the dark figure, it is reasonable to suspect that the majority of Dundee's prostitutes supplemented the money they made selling sex with what they stole from clients.

As has been found elsewhere, prostitutes did not steal from men exclusively and many of Dundee's prostitute-thieves seem to have taken every available opportunity

⁵²⁶ JC26/1865/14, JC26/1874/75, JC26/1894/13, JC26/1882/15, JC26/1894/8, JC26/1895/9. Similarly, *Whores and Thieves*, p. 94.

⁵²⁷ WN, 20 August 1887 and similarly *DA*, 4 April 1876. There is no shortage of examples from elsewhere of the tricks prostitutes used—alone and with accomplices—to entice men into a deserted place to be robbed: Macilwee, *The Liverpool Underworld*, p. 162, Frost, *Living in Sin*, p. 135.

⁵²⁸ Prison inspector Mary Gordon discovered that many young prostitutes swapped sex for sweets, beer, a cheap coat or a box of chocolates: cited by Newby, *Women's Lives*, p. 140. On stealing see White, *London in the Nineteenth Century*, pp. 295, 314, Jones, *Crime in Nineteenth-Century Wales*, p. 37, Lee, 'Regulating Prostitution in Nineteenth-Century Kent', p. 93. And stealing, Butler suggests, was also an opportunity for a prostitute to take revenge on their customers: *Daughters of Joy*, p. 58.

to steal.⁵²⁹ Ann Parkhill was an all-round offender with convictions for assaulting and robbing men, uttering base coin (false money), and receiving stolen goods, as well as for a string of domestic thefts.⁵³⁰ Parkhill, in common with several prostitute-thieves tried at the high court, had convictions in both Dundee and other Scottish cities. Janet Thomson—the tiepin thief—had previously stolen two pigs, gold earrings as well as low-value items of domestic clothing. Catherine Cleary or Donnelly, the ‘light-fingered nymph’, whom we also met earlier with her booty of pound notes and half sovereigns, served time for stealing pennies from a child, and Mary Reed, a seventeen-year-old streetwalker admitted into Dundee’s prostitute refuge, had been imprisoned for stealing a petticoat.⁵³¹ As the city’s magistrates treated young offenders leniently it is reasonable to suspect that Reed had been charged with pilfering domestic items at least twice prior to her imprisonment.

From these trial records, and others like them, we unearth evidence of the diverse range of circumstances surrounding prostitute-thieves. As the analysis develops we shall see that they very often shared the social characteristics of the most marginalised sections of the working class, particularly in their use of alcohol. In the next section we venture into the archives to find evidence of prostitutes abusing drink and in doing so we catch sight of some familiar faces.

⁵²⁹ For instance JC26/1882/68, JC26/1885/32, JC26/1868/64, JC 26/1885/32. For similar O’Neill, *Crime City*, p. 136, Walkowitz, ‘We are Not Beasts of the Field’, p. 86.

⁵³⁰ For a discussion of counterfeiting as a popular choice for female criminals: Newby, *Women’s Lives*, pp. 147-148.

⁵³¹ Matron’s Diary, *WN*, 13 February 1886, JC26/1882/69.

3.1 f) ‘She Might Have Had a Bath in Drink’: Drunk and Disorderly Prostitutes

Mrs Hamilton, it will be remembered, when asked what she had done with the significant sum of money she had stolen from a soldier, told the court she ‘supposed she had drank it’. ‘You might have had a bath in drink’ came the judge’s telling response.⁵³² A similar theme is evident in the statement by the Superintendent of Glasgow Police, in 1908, that prostitutes were ‘constantly drinking the worse description of spirituous liquors’.⁵³³ In fact, there is general agreement amongst historians on both sides of the Atlantic that the contemporary association of prostitution and drink was justified.⁵³⁴ Alcohol was central to prostitute culture. The pub was usually where prostitutes picked up men. Strong drink, and in some cases opiates, gave the novice prostitute Dutch courage, it helped the hardened prostitute to cope with their difficult working conditions and was the means by which streetwalkers and their clients sidestepped their inhibitions.⁵³⁵

Given the relationship between drink and prostitution it is no surprise that historians have found that streetwalkers were constantly before the courts charged with

⁵³² *WN*, 7 July 1900, similarly 17 March 1866.

⁵³³ John Francis Sutherland, *Recidivism: Habitual Criminality and Habitual Petty Delinquency: A Problem in Sociology, Psychopathology and Criminology* (Edinburgh, 1908), p. 19.

⁵³⁴ A sample include: Zedner, *Women, Crime and Custody*, p. 22, Fingard, *The Dark Side of Life*, pp. 19-20. There are exceptions: in Calgary prostitutes were not associated with drink or drugs: Bedford, ‘Prostitution in Calgary 1905–1914’, p. 8.

⁵³⁵ Goldman, *Goldiggers and Silver Miners*, pp. 131-2, Henderson, *Disorderly Women in Eighteenth-Century London*, p. 187, Backhouse, *Petticoats and Prejudice*, p. 229, Holmes, ‘Reflections by Gaslight’, p. 85. Modern researchers believe today’s sex workers use Crack for the same reasons: Bennett, ‘The Causal Connection Between Drug Misuse and Crime’, p. 514.

disrupting public order.⁵³⁶ In Dundee the police occupation records attribute a significant proportion of drink-related crimes to the women of the streets, yet identifying the prostitute drunks in the archives is no easy task. Once again, in order to catch a glimpse of them, we must pursue a trail through the newspaper trial reports, deciphering the language as we go.

3.1 g) The ‘Unfortunates’ in Dundee’s Press

In 1903 delegates at a crime conference in the Scottish capital referred to prostitutes as ‘women of the unfortunate class’.⁵³⁷ The adjective is significant because in York, as elsewhere, when newspapers discussed ‘unfortunates’ it signalled the appearance of prostitute-defendants. The Dundonian press in the first half of the century certainly used the word in this way, but in the period with which we are concerned it was also applied more widely and consequently ‘unfortunate’ seems to have been a generic marker for those needing sympathy. In 1866, for example, the apparently chaste Margaret Waters, who had attempted to commit suicide, was described as an ‘unfortunate woman’.⁵³⁸ A decade later, without inference of a furtive encounter, a drunkard was ranked as a ‘poor unfortunate inebriate’,⁵³⁹ while *The Piper O’Dundee*, at the end of the century, used the term to label tuberculosis sufferers.⁵⁴⁰ The headline ‘unfortunates from St Andrews’, nevertheless, probably does refer to streetwalkers. It was used to describe the trial of two drunken women arrested in Dundee in 1887. In addition to utilizing the well-known euphemism for vice, the paper emphasized that

⁵³⁶ Phillips, ‘Poverty, Unemployment, and the Administration of the Criminal Law’, p. 134, Slater, ‘Prostitutes and Popular History’, p.29. For a contemporary statement: W C Sullivan, *Alcoholism: A Chapter in Social Pathology* (London, 1906), p. 19.

⁵³⁷ *S’mán*, 1 July 1913.

⁵³⁸ *WN*, 17 March 1866.

⁵³⁹ *WN*, 26 July 1879.

⁵⁴⁰ *Piper*, 22 March 1891.

one of the women was 'unfortunate' since in her drunken state she had 'fallen down a stair and got her head cut'.⁵⁴¹ Incidentally, Luddy believes journalists used prostitution trials to amuse their readers and this certainly seems the intention with the St Andrews defendants.⁵⁴² In the main, however, Dundee's press relied on magistrates' quips for humour and when recounting the trials of disorderly streetwalkers they generally utilised coded language similar to that already identified in the analysis of prostitution and theft.⁵⁴³

Bridget McCann, who was charged with being drunk and disorderly, was described by the local press as 'one of the most notorious characters in the town'.⁵⁴⁴ It is fair to assume she was a prostitute because comparable studies elsewhere associate the word 'notorious' with the sex trade.⁵⁴⁵ On the back of the evidence that Metropolitan prostitutes were described as possessing 'considerable personal attractions',⁵⁴⁶ it is probable that the 'stylish young women' that *The Weekly News* reported were brawling near Dundee's harbour were prostitutes fighting over clients.⁵⁴⁷ And building on the fact that elsewhere streetwalkers could be gaudily-dressed and obvious to all in their tawdry finery, heavy-make up or simply the bareness of their necks, it seems local readers may have understood 'stylish' to mean whore.⁵⁴⁸ We will

⁵⁴¹ *WN*, 12 November 1887.

⁵⁴² Luddy, *Prostitution and Irish Society*, p. 46.

⁵⁴³ There was a long tradition of the press portraying the court as popular theatre: Sangster, 'Pardon Tales', pp.175-176, Home, 'Denison's Law:' p. 173.

⁵⁴⁴ *WN*, 28 October 1865.

⁵⁴⁵ Fingard, *The Dark Side of Life*, p. 106.

⁵⁴⁶ Donald, *The Victorian Underworld*, p. 104.

⁵⁴⁷ *WN*, 25 December 1886.

⁵⁴⁸ Presumably full-time prostitutes were more likely to adapt their dress to attract men in a way that part-time, casual and reluctant prostitutes did not. Although some historians have found that amongst streetwalkers were those who looked no different to their (chaste) working-class sisters, as well as a third group whose appearance, in dirty rags, and looking half-starved portrayed their poverty. It is difficult to generalise

return to the tactics of the Dundonian press in reporting female offenders in Chapter 4. What we should note here is that the manner of the trial report often provides the strongest suggestion that drunk and disorderly women were working in the sex trade.

The trial of Janet Symington, who was convicted of attacking another woman, involved '[l]engthy evidence' on both sides, yet the court column is strikingly silent as to its content. Since *The Weekly News* provided detailed reports on numerous other cases on the court roll that day it is reasonable to suspect that the brevity of the Symington trial was to protect the sensitivities of the readers.⁵⁴⁹ The same pattern is evident in reports concerning drink-related crimes committed around the harbour and the streets that contemporaries would have associated with soliciting. As there is no doubt that prostitution was a part of daily life in Dundee, the reading public will have had a good idea, from the location of the offence, when a prostitute stood at the bar. Following this approach the 'disgraceful' night-time scenes—involving men and women quarrelling and fighting—encourage us to suspect that these cases pertained to prostitutes and their clients, as well as to prostitutes and their pimps.⁵⁵⁰ But sometimes we are lucky and find evidence that more than makes up for the missing detail. The press references to 'abandoned young women', to 'pests of the streets' and

about what prostitutes looked like, indeed, the availability of a woman, Durson finds, could have been advertised simply by a clean ribbon: *Victims and Viragos*, p. 203. More evidence on the appearance of prostitutes, on which Dundonian sources are lacking, is found in Walkowitz, "We are Not Beasts of the Field", pp. 86-87, 73, Luddy, *Prostitution and Irish Society*, p. 53, Gunn, *The Public Culture of the Victorian Middle Class*, p. 64.

⁵⁴⁹ *WN*, 27 May 1865.

⁵⁵⁰ *C*, 1 July 1881, *WN*, 10, 17, 24 July 1875, 15 September 1866, 3 July 1875, 26 June 1886. For similar cases interpreted in this way: Murphy, 'The Private Lives of Public Women', pp. 30, 32. The relationship between the pimp and prostitute is complex on this: Slater, 'Prostitutes and Popular History', p. 44, Sheldon Garon, 'The World's Oldest Debate? Prostitution and the State in Imperial Japan 1900-1945', *The American Historical Review*, 98 (1993), p. 713.

to incidents involving ‘foreign sailors’, might be cryptic but they offer vital clues that prostitutes were often among the inebriated.⁵⁵¹

Finnegan raises an interesting question: were prostitutes more dependent on alcohol than other women of the poor? ⁵⁵² It is a question that, currently at least, cannot be answered because although the cumulative effect of Dundee’s crime sources identifies the drunk and disorderly female offender as a prostitute, the vigour of the city’s drink culture was, as we saw in the last chapter, independent of its sex trade. And all the signs suggest that it was commonplace for large sections of Dundee’s deprived working-class community to get drunk on a regular basis, and to do so for many years. An equally impossible task would be determining whether most prostitutes were casually employed mill workers, who took to the streets sporadically to make-ends-meet, or whether they had a more permanent acquaintance with the docks.

As was emphasized at the start of this chapter, Dundee’s police occupation records separate prostitutes from mill workers, and to recall a point made then, the examination of the court papers highlights the fallacy of this division as many offenders worked *both* in jute and in the vice trade, confirming the widespread view that women often mixed casual legitimate work with casual prostitution.⁵⁵³ For the moment the overlap between the prostitute and mill worker does not hinder the examination of female criminality. On the contrary, the contemporary classification provides a useful framework within which to organise our findings. The criminality of

⁵⁵¹ C, 29 June 1875, 21 November 1879, *WN*, 20 March 1880, 19 April 1879.

⁵⁵² Finnegan, *Poverty and Prostitution*, p. 154.

⁵⁵³ Petrow, *Policing Morals*, p. 120, Urwick, *Studies of Boy Life*, p. 236.

mill workers will be discussed next, and from there our focus falls on the women the police logged as having ‘No Trade’.

3.2 ‘I Have the Labour, I Will Also Have the Amusement’: Dundee’s Mill-Worker Offenders

According to the police occupation returns, the mill-worker class was responsible for around a quarter of recorded offences between 1868 and 1877. From a reading of the newspapers we can be sure that mill workers were routinely brought before the city’s courts and it is no surprise that the labouring class is prominent in Dundee’s crime records. In the late nineteenth century it was estimated that thirty to forty thousand young women and girls maintained themselves by their labour in the city’s jute industry.⁵⁵⁴ It was the size of its female workforce that, as we saw in Chapter 1, led to Dundee being known as ‘a woman’s town’ or ‘she town’.⁵⁵⁵

Dundee produced fine, heavy and common linen, jute cloth, canvas, backing for carpets and all manner of rope.⁵⁵⁶ Consequently there was a range of different textile trades covered by the term ‘mill worker’. Who then were the operatives the crime records pertain to? As no police record has been found defining the occupation categories, knowing to whom the mill worker label applied involves a process of elimination.

⁵⁵⁴ Paton, *Handbook and Guide to Dundee*, Whatley, *The Diary of John Sturrock, Millwright*, p. 329.

⁵⁵⁵ Unknown, *Verdant Works*, p. 24.

⁵⁵⁶ Dundee’s main industry was in the manufacture of jute, there was also linen production but the crime records do not distinguish between workers in linen and jute.

Contemporaries refer to the caste system among Dundee's working women. Weavers, winders and sack machinists were described, in 1912, as '[a] hard working, thrifty and self-respecting class of workers', and a 'credit to' the city.⁵⁵⁷ They impressed Social Union visitors with the neatness of their dress and the decorum of their manners. The archives (unsurprisingly) reveal that these workers generally did not exercise the police.⁵⁵⁸ Spinners, though, are less easy to dismiss from our line-up of suspects as they are included in some mill-worker records, but excluded from others. What seems most likely is that there was a core within the mill-worker cohort to whom the police sources pertain.

The key to unravelling the evidence is provided in the Special Commissioner phrase: 'there were "millworkers and millworkers"'. As she explained, both the 'respectable, well-dressed, industrious' worker, and the casually employed, 'shawlied lassie, of hard voice and rough manners', were merged in the term.⁵⁵⁹ The latter included spinners but crucially also mill girls. What is important for our purposes is that the historical material suggests that the mill worker and mill girl were one and the same. In other words, the mill girls and mill workers were unskilled operatives, who were always over eighteen years and not unusually aged sixty and over; and as elsewhere they had a reputation as the unrespectable element of the female workforce.⁵⁶⁰ In

⁵⁵⁷ *PJ*, 14 October 1922, *DYB*, 1901 p. 202.

⁵⁵⁸ *DSU*, pp. 42, 49.

⁵⁵⁹ *DYB*, 1903 p. 154. There is anecdotal evidence that the hierarchy in the mills remained until the 1960s in Dundee and Lancashire.

⁵⁶⁰ *WN*, 13 May 1893. Walker explains that 'girl' referred to their 'style of life': *Juteopolis*, p. 45. Also Watson, *Dundee*, p. 126. Elsewhere millgirls had a reputation for boldness: Margaret Hewitt, *Wives and Mothers in Victorian Industry* (London, 1958), pp. 48, 65-7, Wanda F Neff, *Victorian Working Women: A Historical and Literary Study of Women in British Industries and Professions 1832-1850* (London, 1966), p. 54, Karl Ittman, *Work, Gender and Family in Victorian England* (London, 1995), pp. 153, 224.

Dundee they were referred to as the ‘flotsum and jetsam of the stream of the slums.’⁵⁶¹

But it was not only those working in the mills that were categorised as mill workers. In Dundee’s judicial circles *all* unskilled and casually employed textile operatives, including factory workers and the significant number of women who worked for a pittance sewing sacks at home, were included within the mill worker category. For example, in her trial report Mrs Morrison is described as a ‘millworker’ even though she supported herself and her family ‘by sewing sacks’ at home and ‘washing the stairs at a house in the west end’.⁵⁶²

Some of the mill workers captured in the judicial statistics will have been the payday-drunks who were unruly at the weekends. But it is likely, given their reputation described in a wide range of sources, that the majority had more frequent lapses. Dundee’s historians have neglected the casual mill girls, who, according to *The Courier* in 1901, were ‘unsteady leaving their work for hours and sometimes for days’, as a result, the paper reported, of their intemperance.⁵⁶³ This is remiss of them given that in 1885 a city official remarked that the ‘unsteady’ section of the population, who worked only long enough to get money for drink, dominated Dundee’s overcrowded Hilltown slums.⁵⁶⁴ It is unlikely that this description is wholly

⁵⁶¹ *DYB*, 1903 p. 154.

⁵⁶² *PJ*, 5 November 1881.

⁵⁶³ *C*, 10 January 1901, *PJ*, 18 June 1881. Simon J Dick also notes their high level of absenteeism: ‘Towards a Characterisation of Female Labour in Dundee Jute Industry in the Late Nineteenth and Early Twentieth Centuries’, (unpublished MA dissertation, University of Dundee, 1984), p. 35.

⁵⁶⁴ There has been no discussion here of the proportion of weavers, spinners, sack-sewers and preparatory hands because the evidence is fragmentary, complex and contradictory. Since a council meeting heard that the women of the city’s Sixth Ward

misrepresentative because, as late as 1923, *The Manchester Evening Chronicle* similarly stereotyped Lancashire's mill girls as being 'obsessed with the idea of having a good time' and it may be relevant that commentators in Calgary also observed that 50 per cent of the unskilled section of its population behaved in the same way.⁵⁶⁵ In fact, we do not need to look to comparable sources as Dundee's newspaper court columns reaffirm that it is the casual class of mill women that concerns us in our quest to identify the city's typical offender. Here we find repeated examples of 'mill workers' who committed offences during hours when we imagine their diligent sisters were tending jute.⁵⁶⁶ As we shall see, the press evidence insists that their weekday' misdemeanours must have occurred during periods of absence from work.

In 1881 *The People's Journal* reported that 'our breaches of the peace and overt criminal acts are almost always perpetrated by those who are not working'. The paper pointedly acknowledged that these people were 'free for mischief'.⁵⁶⁷ It was not only the long working hours that kept textile hands out-of-trouble. Recent work by Emma Wainwright sheds light on the discipline in Dundee's mills and factories.⁵⁶⁸ Gates

'generally' earned 'a livelihood by sack-sewing' we might assume that their numbers were not insignificant: *PJ*, 5 November 1881. On the other hand, Iain Sword, a local jute industry expert, believes that the preparatory tasks and sack-sewing involved an ancillary body of workers and the majority of Dundee's textile women were skilled spinners or weavers. I am grateful to Iain Sword, Lottie Redpath, and Lily Thomson, guides at Verdant Works Museum for answering my many questions on Dundee's jute industry.

⁵⁶⁵ *WN*, 28 March 1885, *Manchester Evening Chronicle* 30 January 1923, Bright, 'Loafers Are Not Going to Subsist Upon Public Credulence', p. 51.

⁵⁶⁶ *C*, 29 March 1884, 7 November 1884.

⁵⁶⁷ *PJ*, 4 June 1881.

⁵⁶⁸ She draws on Foucault's 'disciplinary agenda' thesis in *Discipline and Punish, The Birth of the Prison*: Emma M Wainwright, 'Dundee's Jute Mills and Factories: Spaces of Production, Surveillance and Discipline', *Scottish Geographical Journal*, 121

closed exactly at starting time and those late for work had their wages docked. Harry Walker and Sons, for example, collected over £11 in fines in 1891.⁵⁶⁹ When trade was depressed discipline was even tighter. In 1922 those late for work were dismissed and automatically disqualified from benefits for six weeks.⁵⁷⁰ It will come as no surprise that strict regulation also defined the typical working day. Eagle-eyed foremen ensured worker-productivity and his permission was required in order to leave the premises; such permission was frequently refused and if a woman left without it she would be dismissed.⁵⁷¹ And what undoubtedly also had a bearing on the crime archives is the fact that drunkenness was prohibited in the mills and factories. Anyone found 'unfit for work by reason of liquours [sic]' was summarily dismissed and their wages forfeited.⁵⁷²

Gatrell observes that the boundary between employment and unemployment was highly porous in the Victorian and Edwardian period.⁵⁷³ For fairly obvious reasons there will have been a blurring in the police occupation records between the unsteady mill workers and the unemployed, since unskilled employment was extremely insecure and the unreliable hands were the first to be made idle when job cuts were

(2005), p. 134 and 'Detailing Spaces and Processes of Resistance: Working Women in Dundee's Jute Industry', *Geoforum*, 38 (2007), 688-697. It is true nevertheless, as Gordon finds, that life in the mill and factory could have 'a rich and robust character': *Women and the Labour Movement*, p. 154.

⁵⁶⁹ *DYB*, 1891 p. 126.

⁵⁷⁰ Billy Kay, ed, *Odyssey* (Dundee, 1980), p. 40, *DA*, 18 February 1922.

⁵⁷¹ Given the statement above from *The Courier* in 1901, that workers left work 'for hours', further research is needed to establish whether all employers were as strict as Wainwright suggests. So far the evidence has not been available for such an enquiry.

⁵⁷² *PJ*, 18 June 1881.

⁵⁷³ V A C Gatrell, 'The Decline of Theft and Violence in Victorian and Edwardian England,' in V A C Gatrell and Bruce Lenman and Geoffrey Parker, eds, *Crime and the Law: The Social History of Crime in Western Europe Since 1500* (London, 1980), p. 265. Also Stephen P Frank, 'Women and Crime in Imperial Russia, 1834-1913: Representing Realities', in M L Arnot and Cornelia Osborne, *Gender and Crime in Modern Europe* (London, 1999).

made. No record has been located showing how the police categorised the defendants who offended during a spell of absence from the mill. The court records lead us to suppose that if it was believed that the offender spent the majority of their time working, she would be tabulated as a mill worker. Doubtless some will have been catalogued within the ‘No Trade’ cohort, but as we will now see, these offenders had a particularly distinctive profile.

3.3 The ‘No Trade’ Defendants: ‘The Backbone of the Local Prison Population’⁵⁷⁴

The occupation records tell us that the largest category of female offender was classified by the police as being of ‘No Trade’. Representing around 50 per cent of the women cited for crime, between 1868 and 1877, the figures suggest that this class is central to the study of female crime in Dundee. As they are found at the end of the police list, after the ‘Watch & Clock Makers’, ‘Weavers’ and ‘Wrights’, it is reasonable to assume that the ‘No Trade’ defendants were, as the term itself suggests, out-of-work at the time of their offence. The ‘No Trade’ classification is unique to the short series of police occupation records and it is only by drawing on a wide range of sources that we can confirm that the out-of-work were indeed the most prolific female offenders. But who were the women who occupied such a prominent position in the occupation records and continued to dominate the crime archives throughout the period? It is best to start with who they were not.

Although some of the trial reports concerning mid-day fights between neighbours involved housewives, it is unlikely that there were more than a handful of housewives

⁵⁷⁴ R F Quinton, *Crime and Criminals 1876–1910* (London, 1910, reprinted 1984), p. 96.

in the ‘No Trade’ cohort since relatively few of Dundee’s working-class mothers could afford to stay at home to care for their infants.⁵⁷⁵ Contemporaries knew well the necessity of mothers returning to work—for ten hours a day—one month after giving birth, and that this was a major contributor to the city’s shamefully high infant mortality rate.⁵⁷⁶ New mothers were prohibited from returning to the jute mills so soon, but financial necessity regularly forced them to apply to employers where they were unknown before the month was out.⁵⁷⁷ Such was the inadequacy of the typical male wage, the Social Union’s Mary Walker observed in 1912, that if a mother abstained from work her husband’s pay would be insufficient to provide her with the necessary nourishment to enable her to breast-feed.⁵⁷⁸

Dundee’s jute industry was a magnet for women needing work and this takes us, as far as the sources will allow, to the core of the ‘No Trade’ section in the police returns. It is also surely relevant that in Canada, during the same period, the criminal justice authorities used the term ‘No Trade’ to describe vagrants living hand-to-mouth.⁵⁷⁹ There is sound evidence that migrants and vagrants—who begged and stole to obtain drink—represented a sizeable chunk of Dundee’s out-of-work cohort. And their prevalence will have inevitably increased during the years of economic

⁵⁷⁵ *WN*, 19 July 1879, 21 August 1886, 20 March 1875, 3 July 1875. The term ‘housewife’ was rarely used in the court reports.

⁵⁷⁶ Watson writes that ‘some girls had babies virtually where they stood in the mill, and carried on working, almost more fearful of losing their job than they were of losing their child’: *Dundee*, p. 128. This view is supported by: *C*, 2 December 1902, *DYB*, 1903 p. 154, *DSU*, pp. 66-75. Maternity benefit may have existed on paper after The National Insurance Act 1911, but in reality payments were limited to the wives of insured persons, or to mothers who were themselves insured, and thousands of Dundonian women came into neither category: Ferguson, *Scottish Social Welfare: 1864–1914*, p. 519. The DSU also blamed married women’s labour in the jute factories for the verminous condition of the city’s children: *PJ*, 15 April 1905.

⁵⁷⁷ Walker, *Juteopolis*, p. 106.

⁵⁷⁸ Cited in Paton, *Handbook and Guide to Dundee*, p. 72.

⁵⁷⁹ Fingard, *The Dark Side of Life*, p. 36.

depression, when the labour market was over-supplied. We regularly find female vagrants in the court reports having forfeited a bed in the Curr Night Refuge, on account of their rowdiness.⁵⁸⁰ To give an indication of the number of homeless in the city, the Curr Refuge alone admitted 1280 women in 1883.⁵⁸¹ As for the migrant women ‘who drifted from town to town’ – some came to find work in jute, others came to work at the harbour. What the court records affirm is that these mobile women were frequently re-arrested, and this is central to our analysis of female criminality in Dundee.⁵⁸²

3.3 a) The Core of the ‘No Trade’ Cohort: Habitual Offenders

The evidence we need to discover the profile of Dundee’s most active female offenders is found in the ‘No Trade’ cohort. Through the careful examination of the local sources we can start to see the strong association between ‘No Trade’ defendants and recidivists that will become more apparent as the thesis develops. In 1891, for example, the city’s Charity Organisation Society referred to female vagrants living ‘a low, drunken, immoral life’, and fifteen years later Chief Constable Dewar told a commission on vagrancy that some of the city’s homeless ‘had been scores of times sent to prison’ for drunk and disorderly behaviour.⁵⁸³ Equivalent Canadian sources led Judith Fingard to conclude that the only real occupation of the Halifax-recidivist was ‘a jail career interrupted by the occasional job or bout of unemployment’. As discussed in Chapter 1, Fingard contends that the experience of Victorian recidivists in Canadian Halifax is relevant to other nineteenth-century western cities. Indeed, it

⁵⁸⁰ *WN*, 10 July 1880 on the Curr Refuge also Lamb 280(6).

⁵⁸¹ Lennox, p. 296.

⁵⁸² This is a pattern noticed of migrants: Jones, *Crime, Protest, Community*, p. 184.

⁵⁸³ *DIR, PJ*, 27 May 1905. Citing Royal Commission on Vagrancy, Lennox, p. 296.

seems that there may be several motifs linking her findings with this study: the recidivists' drinking made them unreliable and inept hands, their drinking brought them back to court time and time again, and their consequential imprisonment made holding down a job, for the most part, impossible.⁵⁸⁴ As a Dundonian commentator observed, in 1903, '[t]he bad worker, like the bad penny, in course of time becomes known at every millgate in the district, and overseers and managers tired of giving them fresh chances, eventually refuse them employment altogether'.⁵⁸⁵

But if recidivists dominated the most active category in Dundee's female occupation records why did the police not provide a distinct column in their records to plainly reflect this fact? The most probable explanation is that the 1868–1877 series was designed to record the occupation of offenders rather than to distinguish casual from persistent offenders. And besides, the 'No Trade' label was probably considered self-explanatory.⁵⁸⁶

The remainder of this study is concerned with Dundee's female recidivists. Therefore the tertiary occupation classification, unique to the short run of police records pertaining to the start of the period, is no longer helpful. From now on, when the common threads in the lives of the women repeatedly convicted of petty crime are investigated, the 'No Trade' label will be replaced by the language found in the local court papers: thief of 'habite and repute' and 'habite and repute disorderly' as well as

⁵⁸⁴ Fingard, 'Jailbirds in Mid-Victorian Halifax', pp. 64, 78. Similarly Fingard, *The Dark Side of Life*, p. 36. And other studies have found female recidivists were prostitutes and vagrants: Curtin, 'Female Prisoners in Galway', p. 180, Leon Radzinowicz and Roger Hood, 'Incapacitating the Habitual Criminal: The English Experience', *Michigan Law Review*, 78 (1980), p. 1312.

⁵⁸⁵ *DYB*, 1903, citing the 'Special Lady Commissioner', p. 154.

⁵⁸⁶ Fingard, *The Dark Side of Life*, p. 53.

the better-known contemporary terms: ‘habitual offender’, ‘repeat offender’, ‘habitual drunkard’ and ‘inebriate’. Unfortunately this terminology is no less ambiguous than that found in the occupation returns. As we shall see shortly, but more especially in Chapter 4, disagreements over how to define recidivist behaviour created many problems for contemporaries. Leaving that aside for now, the following section will help us to contextualise the criminality of Dundee’s recidivist women.

3.4 Dundee’s Recidivist Women

Who were Dundee’s female recidivists? No name figures so frequently in the annals of the city’s Police Court as that of Margaret Gow, a ‘fish-dealer’. She had by 1877 over 250 convictions for public disorder, a criminal career incidentally on a par with Jane Cakebread, a homeless alcoholic arrested over 290 times for drunkenness, and who achieved nationwide fame, at the end of the nineteenth century, for her expostulations with London police magistrates.⁵⁸⁷ Gow died a drunkard, the city’s authorities having long given up trying to reform her.⁵⁸⁸ Mary Ann Stewart, a drunk and disorderly mill worker and prostitute, was Dundee’s second most habitual offender.⁵⁸⁹ She was born around 1858 and was a prisoner on the nights of both the 1871 and 1881 census, but seems to disappear from the historical records in 1894 by which time she been convicted around 150 times.⁵⁹⁰ We shall learn more about both women in due course. For now the profile of Dundee’s female recidivists emerges most effectively if we build upon what the contemporary experts said about them.

⁵⁸⁷ Morrison, ‘Ordering Disorderly Women’, p. 237.

⁵⁸⁸ Lamb 210(59).

⁵⁸⁹ *C*, 3 September 1889.

⁵⁹⁰ *WN*, 23 October 1872, *DA*, 1 January 1896.

3.4 a) Prostitutes and the ‘Middle-Aged Women Who Might Get Drunk and Get up a Row in the Street’

At a meeting of justices of peace, in 1866, Sheriff Ogilvy identified two main types of persistent offender. First and foremost there were the prostitute-recidivists, and secondly there were the ‘middle-aged women’ that might, he said, ‘get drunk and get up a row in the street’.⁵⁹¹ Sheriff Ogilvy’s observations are central to our analysis of female recidivism in Dundee and will be referred to again. Because many of the offenders he cites were returned to court on a weekly basis there is no shortage of material about their criminal careers. The obvious common denominator in the documents is the striking extent to which their lives were enmeshed with alcohol abuse.

‘FOR THE MOST PART DRUNKARDS’, was how Chief Constable Dewar repeatedly defined persistent recidivists during his long tenure in office.⁵⁹² ‘Habitual drunkard’ and later ‘confirmed inebriate’ were the terms commonly applied in Britain and North America to describe persistent offenders (as well as prostitutes).⁵⁹³ It is evident that these terms were synonymous with alcoholism on both sides of the Atlantic. The link between the recidivist and alcoholic is not a new one. Contemporaries were confident of the association and most scholars, while recognising the difficulty of distinguishing the dipsomaniac from the heavy drinker,

⁵⁹¹ C, 1 May 1866.

⁵⁹² C, 8 July 1893, *WN*, 2 March 1895 (Dewar was in office 1876–1909) for similar use of the term: Morrison, *Crime and its Causes*, p. 370.

⁵⁹³ By the last years of Victoria’s reign ‘inebriate’ replaced the term ‘habitual drunkard; a response to the increasingly accepted view that this class of criminal suffered from the disease of alcoholism and required medical, as opposed to moral, treatment: Weiner, *Reconstructing the Criminal*, pp. 188, 297.

insist alcoholism was common amongst prostitutes.⁵⁹⁴ Zedner might avoid referring directly to the disease but her reference to the female drunkard's 'patent incapacity to stop drinking' indicates that there is general agreement that recidivists frequently suffered from drink addiction.⁵⁹⁵ In the next section we will seek to establish the extent to which Dundee's habitual offenders were alcoholics.

3.4 b) Habitual Offenders and Alcoholism

'What is a Habitual Drunkard?' *The British Medical Journal* asked in 1895.⁵⁹⁶ It was a good question because no single symptom defines the presence of alcoholism. At least thirty-nine classification systems of diagnosis were proposed between 1850 and 1941 and clinicians continue to work to develop criteria to distinguish alcohol dependency from alcohol abuse. Today it is recognised that there is a 'dependence severity scale' within which symptoms of drink addiction range from mild to severe.⁵⁹⁷ Severe dependence, which addicts call the full 'ism', includes the compulsion to drink (cravings) and chronic relapses, while alcohol abuse is widely regarded as an early stage of dependence. In our effort to establish alcoholism amongst Dundee's most persistent 'habituals' it is sufficient to identify their cravings for alcohol, their inability to control their drinking and their chronic relapses after a period of abstinence, either in the prison or the poorhouse.

⁵⁹⁴ For detailed discussion: Fingard, *The Dark Side of Life*, pp. 119, 121, 162, Finnegan, *Poverty and Prostitution*, pp. 147, 154, Grace, 'Female Criminality in York and Hull', p. 264.

⁵⁹⁵ Zedner, *Women, Crime and Custody*, p. 229.

⁵⁹⁶ Unknown, 'What is a Habitual Drunkard?', *BMJ*, 1802 (1895), p. 96.

⁵⁹⁷ Ting-Kai Li and others, 'The Alcohol Dependence Syndrome, 30 Years Later: A Commentary', *National Institute on Alcohol Abuse and Alcoholism* (2006), pp. 1522-1529 includes a discussion on early research on alcoholism, also Royal College of Psychiatrists, *Alcohol and Alcoholism*, pp. 46, 50, 52.

We do not have to probe the sources too far to see the parallels between the habitual drunkard of the past and the alcohol dependent of the present. In law the habitual drunkard was defined by a ‘terrible bondage [to drink]’ that they were ‘utterly unable to control’.⁵⁹⁸ Margaret Gow was described by the local press as ‘addicted to taking a dram’. The Dundee Prison records refer to the side-effects of excessive drinking that were all too obvious during the incarceration of women like her.⁵⁹⁹ And, in common, it seems, with their counterparts throughout Britain and North America, Dundee’s most persistent female offenders compulsively sought alcohol on their release from prison.⁶⁰⁰

We can be certain that mighty forces compelled some recidivists to drink. We know (from Chapter 2) that they stole from neighbours, pawned the pillage and drank the proceeds; risking eighteen-months imprisonment as they did so suggests a recklessness born of desperation. The same is true of the women who took to the streets to finance their craving; only they also risked being beaten and catching a disease. Many commentators, including the Chief Constables of Dundee, Edinburgh and Glasgow, ascribed their criminality to their alcoholism.⁶⁰¹ We will talk about prostitutes again in due course, but to give the finding that repeat offenders were often alcoholics increased credence, it is worth knowing that concoctions of methylated

⁵⁹⁸ Habitual Drunkards Act 1879, see Robert Wemyss Renton and Henry Hilton Brown, *Criminal Procedure According to the Law of Scotland* (Edinburgh, 1909), p. 149, *RHO*, 5696, *C*, 29 December 1883, 22 July 1875.

⁵⁹⁹ *C*, 9 November 1869, Lamb 216(59), *RHO*, 13,402-13,404, 13,171-13,172, 36th *PiSR*, 1875 p. 25. For discussion of delirium tremens or the ‘horrors’: Royal College of Psychiatrists, *Alcohol and Alcoholism*, p. 77.

⁶⁰⁰ *WN* 6 February 1886, 12 March 1870, Lamb 216(59), Fingard, *The Dark Side of Life*, pp. 42, 55, Finnegan, *Poverty and Prostitution*, p. 153.

⁶⁰¹ *RHO*, p. x, 12,304.

spirits were frequently consumed. A few pence worth, it was said, resulted in rapid intoxication and then insensibility.⁶⁰²

It is beyond the historian's capability to try to put figures on the number of recidivists who were severely addicted, or those at an early stage of alcoholism. Today sociologists recognise that statistics on alcoholism are notoriously problematic,⁶⁰³ and contemporaries, finding it difficult to differentiate between the frequently intemperate and the addicted often used the terms 'drunkard', 'habitual drunkard' and 'inebriate' synonymously. Part of the problem was that legal draftsmen quibbled over how many convictions were necessary to be labelled a habitual drunkard and whether they were amassed over one year or two.⁶⁰⁴

What we can say is that Dundee's recidivism records reflect a spectrum of drink dependency that modern clinicians would recognise. Mary Ann Stewart a prostitute-mill worker, who had by 1894 made 139 court appearances, does not appear to have had a severe addiction. She experienced sufficiently regular lucid intervals to obtain, and keep—at least until she was arrested again—her position as a casual mill

⁶⁰² It was more widely available than whisky and its effects faster: *PoR*, 1922–1924, *PJ*, 15 October 1921, *C*, 1 January 1918, *RHO*, p. xlvii. Meths drinking has been noted elsewhere too: William Calwell, MD, 'Ether Drinking in Ulster', *BMJ*, 2589 (1910), 387–389.

⁶⁰³ Sharon Macdonald, 'Whisky, Women and the Scottish Drink Problem: A View from the Highlands', in Marianne McDonald, ed, *Gender, Drink and Drugs* (Oxford, 1994), p. 139.

⁶⁰⁴ See for example Stephen S Alford, 'The Necessity for Legislation for the Control and Cure of Habitual Drunkards: A Paper Read Before the Social Science Association at Liverpool' (London, 1876), pp. 1–4, Galton, "Once a Drunkard Always a Drunkard": p. 46, unknown, 'What is a Habitual Drunkard?', *BMJ*, 1802 (1895), p. 96.

worker.⁶⁰⁵ Similarly J. Rutherford Hill, writing of Edinburgh's prostitute reformatories, acknowledged that there were among the inmates 'victims of intemperance' as well as 'confirmed inebriates'.⁶⁰⁶ His evidence serves as a reminder of Sheriff Ogilvy's view that persistent offenders were first and foremost prostitutes.⁶⁰⁷ As we see in the next section this is a common theme in the historical accounts.

3.4 c) Prostitutes: The Most Prevalent Female Offenders

In 1898 *The Courier* associated recidivist women with the vice trade, when it reported that 'by far the largest proportion' of habituals had 'strayed from the paths of virtue' and had sunk 'to the lowest depths of moral depravity'.⁶⁰⁸ Given the repetitive themes in the evidence it is relevant to this study that throughout Britain and North America historians have noted the proclivity for prostitutes to re-offend. Backhouse, for example, suggests that they were rearrested so frequently that they had no time to practise the trade.⁶⁰⁹ Of the Dundonian evidence the police statistics, gathered between 1899 and 1902, perhaps capture the same pattern most effectively. As Table 3.3 shows around 94 per cent of the prostitutes arrested for importuning had previous convictions. As with studies elsewhere, their convictions included crimes other than soliciting. Mary Ann Scott epitomizes her class: with over sixty convictions of which

⁶⁰⁵ C, 4 September 1894, 20 April 1888, 12 September 1878, 1 July 1881, 17 March 1891, 19 June 1884.

⁶⁰⁶ J Rutherford Hill, President Edinburgh Band of Hope Union, Annual Conference of the Reformatory and Refuge Union, *Some Helps and Hindrances in Rescue and Preventive Work Among Women and Girls* (Edinburgh, 1911), p. 56.

⁶⁰⁷ C, 1 May 1866, see above Section 3.4 a) Prostitutes and the 'middle-aged women who might get drunk and get up a row in the street'.

⁶⁰⁸ C, 5 January 1893.

⁶⁰⁹ Backhouse, *Petticoats and Prejudice*, p. 237. Similarly Fingard, *The Dark Side of Life*, p. 11, Phillips, 'Poverty, Unemployment, and the Administration of the Criminal Law', p. 139, Jones, *Crime in Nineteenth-Century Wales*, p. 197.

only nine were for soliciting, the rest being drink related.⁶¹⁰ There are reasons for placing some of the women like her within the city's criminal class. That is, of course, presuming that there was such a thing.

Table 3.3: Number of Previous Convictions of Women Apprehended for Soliciting 1899, 1900, 1902

	1899	1900	Change of format 1901	1902	Totals
Total annual convictions	120	111		99	330
Prostitutes with no previous convictions	5	10		4	19
Number of prostitutes convicted of any previous crime	115	101		95	311
1	12	7		1	
2	9	7		2	
3	5	9		1	
4–10	35	19		17	
11–20	27	18		15	
21–50	21	23		34	
51–100	6	18		16	
101–150	0	0		9	

From: *PoR*, 1899, 1900, 1902.

3.4 d) Was There a Criminal Class?

In the period we are studying, as we shall see in Chapter 4, there was an international community of researchers who investigated crime and its causes. What is important for our purposes is that the majority were convinced of the existence of a criminal class. Understanding what they meant is often problematic because of the contemporary controversies surrounding the definition of recidivism. G. W. Pailthorpe declared that he represented the prevailing British criminological tradition when he advocated, in 1932, that members of 'the criminal class' belonged to 'a

⁶¹⁰ *WN* 23 October 1872, *DA* 1 January 1896.

separate class; a class apart, *inherently and permanently evil*' (my italics).⁶¹¹ In contrast when Scotland's criminal justice authorities referred to the 'criminal classes' their thoughts were on petty habitual offenders. At a Scottish conference in 1905, for example, magistrates (including from Dundee) considered what was to be done with 'the habitual offenders of the dissipated and criminal classes', and Chief Constable spoke separately on the dangers presented to society by the 'Professional Criminals' who committed '[b]urglaries and other forms of crime of a serious and dangerous kind'; some of whom were 'international in their operations'.⁶¹²

Several well-executed historical studies have disputed the existence of a Victorian and Edwardian criminal class divorced from the working class, largely because petty theft was used by so many to supplement meagre incomes and to tide them over during periods of unemployment that it can be regarded as a form of self-help.⁶¹³ In light of the Dundee evidence we must take view that there was a separate class of criminals. This is because in the archives we catch sight of a hard core of repeat offenders—sometimes dangerous, but not always—who lived off the proceeds of their offending for several years consecutively. These career criminals included recidivists who set themselves up in the illegal liquor trade and also prostitutes who, it seems, made a good living by stealing from men.

⁶¹¹ G W Pailthorpe, *What we put in Prison and Preventive and Rescue Homes* (London, 1932), p. 21.

⁶¹² *PJ*, 8 April 1905.

⁶¹³ For a summary of the position see Heather Shore, 'Criminality, Deviance and the Underworld Since 1750', pp. 124-6, and her forthcoming *The Underworld: Crime, Police and Criminal Networks, c 1700 to c 1939*, also Macilwee, *The Liverpool Underworld*, p. xv.

To recall a key point made earlier (in Section 3.1), Dundee's High Court records provide strong evidence that some prostitute-thieves were extremely successful at targeting visitors in possession of considerable money or money's worth. These frequently violent thieves, who often committed robbery and assault with male accomplices, had lengthy criminal records, and some were well known in courts the length and breadth of Britain.⁶¹⁴ Habitual thief Jane McBlain appears to have been a calculative offender since she 'pawned some of the things' she had stolen 'and some of them were got by the police in [her] house'.⁶¹⁵ Those who hid their plunder were probably lying low, waiting for a chance to get to a pawnshop in another district of Dundee or another city. But it is not only the minority tried at the high court that are contenders for criminal-class status.

'Habite and repute-disorderly' and prostitute-thief Euphemia Duff was, it seems, never before Dundee's High Court yet she lived off crime.⁶¹⁶ She told the police that she was a millworker; we can be fairly confident that this was a casual arrangement, probably a cover for the fact that she was earning a living from selling drink illegally. And not only did she have a reputation for shebeening, she was also convicted of brothel keeping.⁶¹⁷ Perhaps mirroring the Johannesburg slums, there was a strong association between the thriving illicit liquor trade, prostitution and theft in Dundee.⁶¹⁸ As the police occupation records illustrate (Table 3.4 below), scores of

⁶¹⁴ JC26/1872/20, JC26/1872/19, JC 26/1872/72, JC26/1882/10.

⁶¹⁵ JC26/1882/58.

⁶¹⁶ C, 3 October 1884.

⁶¹⁷ C, 17 March 1875, 4 June 1875, 24 November 1875, 17 September 1883, 14 July 1888, 26 September 1892, 20 February 1894.

⁶¹⁸ Susan Parnell, 'Race, Power and Urban Control: Johannesburg's Inner City Slum-Yards, 1910–1923', *Journal of Southern Africa Studies*, 29 (2003), p. 633. The Galway and Glasgow records similarly indicate that brothels and shebeens were one

women in the 'No Trade' cohort (the class, it will be remembered, responsible for most reported female crime, according to the 1868–1877 statistics) were charged with selling alcohol illegally. The numbers of recidivists involved were probably much higher given that shebeening was extremely difficult to prosecute and the police complained that they did brisk trade when the pubs were closed. Officially unemployed these women may have been, but there can be no doubt that the illegal liquor trade engaged entrepreneurs with some skill. Hidden in coal boxes and under beds, their stock was valuable and in demand and, as was discussed in Chapter 2, so successful were these tenement industries that they were able to offer their customers credit. Further proof of the criminal-class status of their proprietors is their association with counterfeit money. As the manufacture of base coin, as it was known, required skill in forgery in metal work and printing it is unlikely that practitioners were casual criminals.⁶¹⁹

By comparing the census with the trial reports we can piece together a picture of Dundee's criminal families making their livelihood from these criminal activities. Euphemia Duff has been mentioned. Her daughter Margaret worked as her accomplice when robbing sailors of their valuables. And Euphemia's father, daughter and husband were all convicted separately of shebeening.⁶²⁰ The latter, Edward Quinn, was referred to as a 'man of many crimes' who had been imprisoned for petty theft, horse stealing, brothel keeping and violence.⁶²¹ Indeed, the contemporary description of the criminal, living off crime, could have been written with him in

and the same: Curtin, 'Female Prisoners in Galway', p. 181, Goldsmith, 'The Development of the City of Glasgow Police', p. 331.

⁶¹⁹ *C*, 19 June 1884, *PJ*, 11 June 1881, *JC* 26/1891/178.

⁶²⁰ *S'man*, 29 September 1892.

⁶²¹ *C*, 8 June 1883, 14 July 1888.

mind. ‘He never has worked, he does not want work; he prefers living by his wits ... To live by plundering the community is his trade’.⁶²² And again concurring with Judith Fingard’s Canadian findings, it is not uncommon to find female recidivists with kinsfolk from the same mould and we know, from the accounts of their drunken disorder convictions, that persistent offenders also dominated their social circle.⁶²³

Most of Dundee’s habitual offenders were not, however, making a living from crime and so did not belong to the city’s criminal class. Why? Because the evidence suggests that the majority were primarily drunkards who, if they stole, took low value items to pawn for alcohol. What is more, they experienced several spells in prison because they could not afford to pay their police court fine, and, as we shall see in the next chapter, without resources to fall back on, many cycled between the prison and the poorhouse.

Table 3.4: Women Cited or Apprehended and Before Dundee’s Police Court for Shebeening 1875–1877

Year of return	Prostitutes	No trade	Millworker
1875	0	50	3
1876	0	52	2
1877	0	33	1

From: *PoR*, 1875–1877.

⁶²² Citing *Crime and its Causes* (1891), Barrett, *Crime and Punishment in England*, p. 187.

⁶²³ Fingard, ‘Jailbirds in Mid-Victorian Halifax’, p. 78, on Mary Ann Stewart see *WN*, 23 October 1872, *DA*, 1 January 1896. The brevity of the published accounts has curtailed the identification of more criminal families in Dundee.

3.5 Conclusion

Historians agree that the propensity for criminal behaviour varies between age groups.⁶²⁴ There is disagreement, however, as to the age when women are most likely to break the law. The tally of Dundee's Victorian police statistics indicates that it was adult women, between the age of 20 and 40 years, who were most frequently convicted of crime. And according to the city's occupation returns, between 1868 and 1877, over 90 per cent of reported female crime was committed by prostitutes, mill workers and those described as having 'No Trade'. It was helpful to pursue this tertiary classification for much of the chapter, notwithstanding the overlap between the categories, because it was fitting to emphasise the association between prostitutes and crime.

Both Morrison and Sturma observe that most historians have reiterated the evidence that female offenders were 'drunken and abandoned prostitutes'. Their warning to scholars against simply repeating the stereotypes that litter the archives infers that there is a canard that needs countering, but the local evidence tells us that this is not the case.⁶²⁵ In Dundee the culture of editorial prudery threatens to defeat enquires of the prostitute-offender, since the straight-laced reporting style makes it hard to identify her at the police court. Nevertheless, by pursuing the sexual motifs in the high court records, and by reading between the lines of the press we can pick out sufficient evidence to support the finding that prostitutes were disproportionately involved in crime. They were not, however, the only women in the city stealing and being drunk and disorderly.

⁶²⁴ King, 'Female Offenders, Work and Life-Cycle Change', p. 85.

⁶²⁵ Sturma, 'Eye of the Beholder', p. 5. Morrison, 'Ordering Disorderly Women', p. 15.

There is some justification for the historical stereotype of Dundee's jute women as loud and unruly. Their disruptive conduct was clearly a reality given there were dozens of drunk and disorderly mill workers before the local police magistrates each month. But we must be more specific about the profile of the female offenders captured in the crime records. It is the casually employed labourers, those who were frequently absent from the mills, who dominate the archives, as well as the sweated sack-sewers labouring in the cramped tenements. The city's weavers, with their bonnets and gloves, as we would expect, make very infrequent appearances in the crime records from the period. However, this chapter has shown that the mill girls did not deserve to be singled out as a 'moral blot on the city' for the cohort of female offenders the police labelled as having 'No Trade', and whom we have classed as the out-of-work, furnish the crime historian with the most material. On the basis of the documents pertaining to infant mortality it has been argued that they were probably not housewives, for the simple reason that the majority of working-class mothers in Dundee could not afford to stay at home. A key finding in the study is that migrant and vagrant offenders were both common in the 'No Trade' cohort, but more crucially this group has been paired with recidivists.

Dundee's recidivist-women were a mixed bag. To use the contemporary terms, they encompassed 'habite and repute' drunk and disorderly offenders and 'thieves of habit and repute'. Some of the drunkards had served several years' penal servitude for the repeated theft of domestic items of little value such as doormats and bedding.⁶²⁶ Others were prostitutes, or pretended to be so, habitually stealing money or monies

⁶²⁶ *DA*, 20 June 1876.

worth from men often of considerable value. And amongst them were recidivists who stole whenever the opportunity arose; who might reasonably be labelled as belonging to a criminal class since it seems they made their living off crime. But whilst women offenders represented a diverse group they very often shared the social characteristics particular to the most marginalised sections of the working class: they were unskilled and inconsistently employed, they were impoverished and they routinely abused alcohol. In possessing these traits Dundee's recidivists appear to have had much in common with their English and North American counterparts. And, incidentally, today disadvantaged women with drink and drug habits continue to be overrepresented in Scottish prisons.⁶²⁷

Now that we have an overview of the most common types of crime committed by women in Dundee, and we have an occupational and age profile of the women most likely to be brought before the police court, our attention shifts from what the sources can tell us about the city's most *common* female offenders to the rather more difficult task of investigating the recidivist women *persistently* before the courts. The remainder of the study will focus on the women entrenched in Dundee's Victorian and Edwardian criminal justice system. And it is in the analysis of recidivist women that the dissertation makes the most significant contribution to crime history. The next chapter will identify and explore the most obvious reason for their striking position in the crime statistics.

⁶²⁷ Zedner, 'Women, Crime, and Penal Responses', p. 318, Fingard, 'Jailbirds in Mid-Victorian Halifax', p. 78, Dodge, '*Whores and Thieves*', p. 259, Boritch, *Fallen Women*, p. 25, *Report of the Commission on Women Offenders* (Scotland, 2012), p. 3.

Chapter 4

‘More Sinned Against Than Sinning?’: Dundee’s ‘Small Army’ of Habitual Offenders

It is not a pleasant thing to have to devote nearly an entire volume to denouncing in measured terms ... members of that sex which one has been reared to regard with the eye of compassion and with feelings almost of reverence ... [Women who we have been] taught to contemplate as nearly approaching the angelic are, by their own acts, more nearly allied to things hellish than to things heavenly.⁶²⁸

4.0 Introduction

Having completed our investigation of Dundee’s prevalent female crimes and the profile of the most common female offenders, the remainder of the study will focus on the women entrenched in Dundee’s Victorian and Edwardian criminal justice system.

In this chapter more will be revealed about the city’s most persistent female offenders, beginning with their number and their prominence in the crime statistics. It will be shown that a ‘small army’ of around one hundred women dominated the recidivism records, not simply because they were returned to court with such regularity, but because they had few male counterparts competing with them for the judges’ time.⁶²⁹ The female character of the hardened habitual offender is a phenomenon that has been acknowledged elsewhere. The majority of British crime historians, however, have only mentioned it in passing and, in the main, only those who have focused on the female dominance of the Edwardian inebriate reformatories

⁶²⁸ Hargrave L Adam, *Women and Crime* (London, 1914), p. 3.

⁶²⁹ C, 11 November 1845.

have sought an explanation.⁶³⁰ This chapter, however, will closely analyze the patterns in Dundee's recidivism records.

Why were Dundee's most persistent offenders women, when it was men who were most often convicted of crime? The answer is not easy to find. There are, as will be apparent as the analysis unfolds, many overlapping and contradictory factors associated with the domination of female recidivists. It is well known amongst crime historians that social science theory is a helpful guide when it is difficult to know which line to follow in the archives.⁶³¹ In this chapter we will discuss labelling theory, feminist double deviance theory (or double jeopardy effect) and the concept of the moral panic. The reason for the interdisciplinary approach is that this theoretical framework encourages us to consider that discrimination, by criminal justice practitioners, may account for the gendered nature of Dundee's judicial statistics. Because these theories focus our attention on how recidivist women were perceived in their own community, as well as more widely, this chapter will examine the press for evidence of local attitudes. It is hard to know how female recidivists were perceived when the city's strong drink culture appears to have inured large sections of the community to the vision of a drunk and disorderly mill worker. However, a key theme will be that the biased attitudes of contemporary criminologists, captured in the extract above from Hargrave Adam's *Women and Crime* (1914), offers a convincing explanation for the patterns in the archives. Because it seems that there was not

⁶³⁰ Those who mention female recidivism in passing: Donnachie, 'The Darker Side', p. 5, Jones, *Crime in Nineteenth-Century Wales*, p. 172, Weaver, *Crimes, Constables and Courts*, p. 54, Jones, *Capital Punishments*, p. 92, Boyle, 'Women and Crime in Belfast,' p. 173, Emsley, *Crime and Society in England*, p. 95, Macilwee, *The Liverpool Underworld*, p. 117. Those who looked at the phenomena were introduced in Chapter 1 and will be referred to again in this chapter.

⁶³¹ Monkkonen, *Police in Urban America*, p. 14.

discrimination against female offenders generally, the chapter will end with a discussion of the principal characteristics that set those overrepresented in the statistics apart from the rest of Dundee's female poor. The comparison illuminates the ease with which some recidivist women could have been unfairly targeted by the criminal justice authorities.

4.1 Dundee's 'Incorrigible List' was Always Heavy

Recidivists continue to be a nuisance in our own times with an average of six in ten offenders reconvicted. But the vast majority of those before the courts are first-time offenders.⁶³² Can this also be said of the past? Certainly in Canadian Halifax the majority of imprisoned individuals went to jail only once.⁶³³ A less clear-cut trend, however, emerges from the study of Dundee's late nineteenth-century records. In 1878, Chief Constable Dewar reported that 'more than half' of the offenders before the police court had prior convictions. And in another typical year, 1884, *The Advertiser* calculated that 'one in six of the people brought before the Police Court' were returned again within twelve months.⁶³⁴ The figures pertaining specifically to known female crimes show the same trend. The theft returns from 1885 to 1896 reveal that 789 cases involved first-time female offenders and a significant 635 crimes were committed by women who possessed one or more previous convictions (see

⁶³² F H McClintock, and Howard N Avison, *Crime in England and Wales* (London, 1968), p. 220.

⁶³³ Fingard, *The Dark Side of Life*, p. 35.

⁶³⁴ *PoR*, 1878 p. 8, *DYB*, 1884 p. 40.

Appendix 4.1.1). The data concerning all female crimes indicates that on average 46 per cent of offences between 1876 and 1893 involved recidivists.⁶³⁵

Table 4.4: The Percentage of Female Re-offenders, in All Cases, 1876–1893

Year	Female		
	Apprehensions	Re-offenders All Cases	Percentage
1876	2321	933	40.20
1877	2605	1404	53.90
1878	2476	1211	48.91
1879	2031	1041	51.26
1880	2296	1171	51.00
1881	2255	993	44.04
1882	2262	1056	46.68
1883	2585	1161	44.91
1884	2474	1041	42.08
1885	1759	704	40.02
1886	1841	782	42.48
1887	1869	812	43.45
1888	1613	646	40.05
1889	1756	695	39.58
1890	2085	913	43.79
1891	1969	922	46.83
1892	1842	829	45.01
1893	2506	1420	56.66
Total	38545	17734	46.01

From: *PoR* 1893, Appendix 25.

In the period of this study recidivism was an extremely complicated issue, and, as was mentioned in the last chapter, there was disagreement, among contemporaries, over what constituted recidivist behaviour. There was concord that habitual offenders were criminals who repeatedly perpetrated serious crimes, but dispute about whether the ‘criminal class’, as it was referred to by contemporaries, was broader – encompassing those who repeatedly perpetrated petty offences.⁶³⁶ There were also problematic

⁶³⁵ These examples refer to different statistics because of the numerous format changes in the relevant police returns.

⁶³⁶ Some historians suggest that all lower-class petty offenders were stereotyped by contemporaries as the ‘criminal class’: Macilwee, *The Liverpool Underworld*, p. xv, Knox and McKinlay, ‘Crime, Protest and Policing in Nineteenth-Century Scotland’, pp. 202-203. But Radzinowicz and Hood note the complexities concerning the

assertions concerning the number of convictions associated with the prison readmission rate. We shall see in Chapter 5 that there was also no agreement on how best to treat intractable recidivists. For now we shall pursue the problems related to the definition of recidivist behaviour.

Officially ‘repeat offenders’ possessed fewer than twenty convictions in their criminal career, whereas ‘habitual offenders’ had a tally of twenty or more.⁶³⁷ What complicates the research is that, at the same time, *The Report from the Departmental Committee on Habitual Offenders, Vagrants, Beggars, Inebriates, and Juvenile Delinquents* (Edinburgh, 1895) defined recidivists as those committed to prison four times or more a year, while The Prevention of Crimes Act 1908 provided that a habitual criminal was someone who had been convicted at least three times since the age of sixteen.⁶³⁸ The Dundonian evidence reflects this range of definitions and what is more perplexing is that the language was applied loosely, with the result that the sources often fail to reflect the diversity of the recidivist community.

When *The Advertiser* reported, in 1884, that one in six, or about 19 per cent, of those before the police court were ‘habitual offenders’ the calculations, unhappily for us,

definition of the habitual criminal: ‘Incapacitating the Habitual Criminal: The English Experience’, p. 1377. There can be no doubt that Dundee’s criminal justice practitioners considered habitual offenders to be petty offenders, quite apart from those professional criminals who presented a real danger to society. For others who have defined habitual offenders as non-dangerous: Geoffrey Best, *Mid-Victorian Britain 1851–75* (Glasgow, 1971), p. 295, Smith, *Oxford History of Laws*, pp. 170, 174–175, Boritch, ‘The Criminal Class Revisited’, pp. 137–70.

⁶³⁷ Zedner, quoting *How Criminal Are Made: Women, Crime and Custody*, p. 228.

⁶³⁸ *RHO*, pp. xiv, xlvi, 415, 171, *Green’s*, 1928 p. 306.

relate to all male and female recidivists.⁶³⁹ Problems with the vocabulary are even more apparent in the data from the previous year, reproduced in Table 4.2. According to the police there were 388 female recidivists, 98 (or 25 per cent) of whom had been convicted between twenty-one and two hundred times in their criminal careers, but each one was labelled a ‘habitual criminal’.⁶⁴⁰ The judicial returns often published figures of the total number of offenders, alongside the number of re-appearances, and deducted one from the other without making any distinction between ‘repeat’ and hardened ‘habitual’ offenders (see Appendix 4.1.2.)⁶⁴¹ That the police and indeed judges frequently failed to separate the two is not surprising given that the authorities merely sought to highlight the state of recidivism in the city. A general snapshot was enough to convince ratepayers that there was a ‘criminal class’ of persistently lawless individuals, in Bailie Hay’s words, ‘injur[ing] the character of the community by increasing the per centage [sic] of crime in the town’.⁶⁴²

⁶³⁹ *DYB*, 1884 p. 40. In fact 1 in 6 equates to 16.7% and 1 in 5 equates to 20%, nevertheless the point remains that recidivism was highlighted by the paper.

⁶⁴⁰ *DYB*, 1883 p. 44.

⁶⁴¹ To determine the number of recidivists we need to distinguish between the number of *cases* due to repeat appearances in the police court from *the number of persons involved*; this is often difficult. To illustrate the problem, in 1873 the police reported a total of 1484 cases of disorderly conduct and breach of the peace. This was accounted for by 1031 male ‘Persons’ and 816 female ‘Persons’. That is, 1847 offenders were cited in 1484 crimes. As is discussed in the text CC Dewar used several distinctions when categorizing recidivists: sometimes he referred to offenders who had been convicted of crimes upwards of 20 times, sometimes those who had over 50 convictions: *PoR* 1918 p. 11, *DYB* 1902 p. 214, *S’mān* 15 January 1900.

⁶⁴² *DA*, 11 January 1866. More examples of judges using ‘repeat’ and ‘habituals’ terminology loosely: *Piper*, 3 March 1900, *PJ*, 8 April 1905, 3 November 1908, *S’mān*, 25 September 1902. Williamson accuses the Victorian police of keeping crime figures low to manage public perceptions: ‘Policing a Myth, Managing an Illusion’, p. 56. The recidivism statistics illustrate that Dundee’s authorities were concerned about the impression ratepayers had of crime in the city.

Table 4.5: Female Offenders With More Than Twenty Convictions in 1883

Number of convictions (as presented in the original) ⁶⁴³	Number of female habitual offenders
20 – 30	38
30 – 40	18
40 – 50	13
50 – 60	8
60 – 70	9
70 – 80	7
90 – 100	1
110 – 120	2
130 – 140	1
160 – 170	1
Total with over 20 convictions	98

From: *DYB*, 1883 p. 44.

The best evidence we have with which to construct a picture of Dundee’s recidivist community are the tabulated statements taken from the annual chief constable returns between 1883 and 1925, shown in Appendix 4.1.3. and 4.1.4. With respect to the female recidivist community as a whole, the figures indicate that there were roughly 278 women a year coming repeatedly before the police court (Appendix 4.1.3.) According to the statistics there was a notable reduction in their number in the post-war period. Dewar was justified, however, as we saw above, to claim in 1883 that there were 388 female recidivists. Indeed, the highest figures were recorded between 1883 and 1902.

The qualitative evidence distinguishing ‘repeat’ offenders from ‘habitual’ (or serial recidivists) possessing over twenty convictions is clearly muddled. Nevertheless, the police statistics in Appendix 4.1.4 are helpful. They indicate that between 1883 and 1925 an average of 102 women a year possessed twenty convictions or more. The

⁶⁴³ It seems that the table should read 20–29 convictions, 20–31 convictions and so on but I have chosen to copy the information as it is presented in the police reports.

data suggest that the highest numbers of serial recidivists were recorded in 1894, 1895, 1900 and 1901: when over one hundred and thirty women would have been well known to the magistrates. Only fifty or so women, though, could officially be defined by Dundee's authorities as 'habituals' in 1905, 1918 and 1923.

It is impossible to calculate the percentage of women recidivists in terms of the female population and the overall population. Whenever a woman (or man) came before the court the number of their previous convictions was recorded: an offender with thirty-seven previous convictions, for example, when sentenced next would be logged as having thirty-eight convictions. The trouble is that the police figures do not record how many separate individuals are involved in the rising tally of reconvictions. A person like Margaret Gow, as the chief constable complained, distorted the overall figures by appearing before the court scores of times. Until recidivism records are located that cite specific individuals and follow their criminal careers through the conviction categories we cannot know what percentage of the female population were recidivist offenders.

The estimate that there were one hundred female serial recidivists gains credence thanks to a newspaper article from 1893 in which *The Courier* observed that a 'small army' of female habitual offenders had a huge impact on the crime statistics. These 'wretched creatures', it reported, against whom there were 'twenty, thirty, forty, and in some cases upwards of one hundred convictions recorded', came up 'again and again before the Courts'.⁶⁴⁴

⁶⁴⁴ C, 5 January 1893. The Dundee Prison reports reveal that, in 1905, 95 per cent of female offenders had been incarcerated fewer than fifty times, while in 1925 the figure was 88 per cent: *PR*, 1905 and 1925.

A survey of comparable sources validates the finding that around one hundred of Dundee's female recidivists were intractable offenders. It was common, for example, for governmental reports to emphasize that a relatively small number of habitual criminals were responsible for a disproportionately large amount of crime. Striking the same note 'A London Police Magistrate' observed that the proportion of habitual drunkards compared with those who occasionally drank to excess was 'small'.⁶⁴⁵ Sources such as these have persuaded historians specialising in nineteenth-century crime that there were a limited number of recidivists who were repeatedly re-arrested by the police. Fingard, for example, finds that 5.3 per cent of offenders were responsible for 32 per cent of the committals to prison in Canadian Halifax.⁶⁴⁶ The next section will show that Dundee's 'small army' of persistent recidivists was representative of a distinctly feminine phenomenon.

4.2 'More Women Than Men': Dundee's Most Hardened Recidivists 1865–1925

The city's register of blacklisted inebriates, compiled in response to the Licensing (Scotland) Act 1903, has frozen in time the faces of those individuals repeatedly convicted of drunk and disorderly behaviour. But what is most striking about the document is that far more female faces stare out from its pages than male. Thirty-five

⁶⁴⁵ Rawlings, *Crime and Power*, p. 112, Unknown, 'Drink and Drunkenness in London by a London Police Magistrate', *The North American Review*, 484 (1897), p. 319. Even so, contemporaries recognised that there were 'thousands' of serial female recidivists nationally: citing J J Pitcairn in Hunt, Mellor and Turner, 'Wretched, Hatless and Miserably Clad', p. 247.

⁶⁴⁶ Fingard, 'Jailbirds in Mid-Victorian Halifax', p. 66. Similarly, Shore, 'Criminality, Deviance and the Underworld', p. 130, Howell, *Geographies of Regulation*, p. 140, David Taylor, *The New Police in Nineteenth-Century England: Crime, Conflict and Control* (Manchester, 1997), p. 103.

of the forty-two drunkards banned from the city's pubs—for having been convicted of a drink-related offence three times in the previous year—were women, and yet, as we shall see shortly, men dominated the police drunkenness figures overall.⁶⁴⁷ In fact, historians have observed that the Edwardian inebriate reformatories—where those listed on habitual-drunkards registers were sent when they failed to reform—were also dominated by women.⁶⁴⁸ The extent to which this was due to policies of social control will be discussed in the next chapter. For now it is necessary to highlight that the local and Scottish authorities were well aware of the disproportion of female recidivists.

‘HABITUAL DRUNKARDS GREAT EXCESS OF FEMALES OVER MALES’, headlined *The Courier* in 1900.⁶⁴⁹ The governor of the city's prison, the chief constables and other commentators, who knew the slum communities well, all noted that when it came to habitual offending women were more hardened criminals than men.⁶⁵⁰ The ratio was in the region of around one to seven.⁶⁵¹

There is nothing untoward about the *overall* ratio of male to female offenders in Dundee (Appendix 4.2). As the pie charts illustrate (Figures 4.1 and 4.2), men generally outnumbered women in drink-related crimes and, as we would expect, men

⁶⁴⁷ *DIR* and a sample will be discussed later.

⁶⁴⁸ A contemporary writing of the confirmed inebriates legislation noted that in the four years he had been in daily attendance at a London police court he had not seen one man convicted under the act: Thomas Holmes, ‘The Criminal Inebriate Female’, *British Journal of Inebriety*, 1 (1906), p. 70.

⁶⁴⁹ *C*, 25 September 1900.

⁶⁵⁰ *RHO*, 13,171, p. xlvi, *C*, 25 September 1900, *DYB*, 1884 p. 40, *S'man*, 4 November 1897.

⁶⁵¹ CC Dewar reported there were 11 male and 79 female habitual offenders in Dundee, a ratio of 1:7: *RHO*, 12,880.

committed two-thirds of reported offences.⁶⁵² Criminologists and crime historians agree that the gender gap between male and female crime is universal: women are always and everywhere less likely than men to commit criminal acts.⁶⁵³ A difference between the past and present soon becomes apparent, however, when we look at historical recidivism. Since the 1960s criminologists have been in no doubt that re-offending is a male trend, yet in the late Victorian/Edwardian period it was clearly a female phenomenon.⁶⁵⁴ Locally this is demonstrated by the fact that 46 per cent of cases brought between 1876 and 1893 against female offenders concerned re-offenders, while only 27 per cent of the cases brought against men involved those already known to the court (Appendix 4. 3). When it comes to Dundee's most persistent offenders the discrepancy is even more striking.

⁶⁵² Dewar reported that two-thirds of those apprehended in the city were male: *S'man* 4 November 1897. Similarly, according to the 1902 police report, 64% of those apprehended for breach of the peace were men, 36% women: *DYB*, 1902 p. 214 (1631 men, 923 women).

⁶⁵³ Cross-disciplinary research suggests this gender difference has been considerably stable since at least the thirteenth century: Allan Steffensmeier and Emilie Allan, 'Gender and Crime: Toward a Gendered Theory of Female Offending', *Annual Review of Sociology*, 22 (1996), pp. 459, 481, Clive Emsley, 'The History of Crime and Crime Control Institutions c 1770 – c 1945', in Maguire, Morgan, and Reiner, *The Oxford Handbook of Criminology*, p. 155, Heidensohn, *Women and Crime*, p. 11. Although while the ratio of female to male prisoners did not normally exceed 1:3, in Liverpool the number of female committals was often equal to, and in some years exceeded that of males, Macilwee, *The Liverpool Underworld*, p. 51.

⁶⁵⁴ This point is covered in several studies, some of which are: Steffensmeier, 'Gender and Crime', p. 464, Smart, 'Criminological Theory', p. 90 and Edwards, 'Sex / Gender, Sexism and Criminal Justice', p. 168.

Figure 4.2: Reported Incidents of Assault and Breach of the Peace 1880–1895

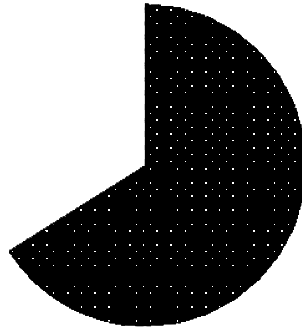
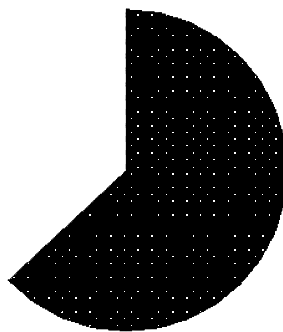


Figure 4.3: Reported Drunkenness Offences 1880–1895



Both from: *PoR*, 1880–1895.

Between 1876 and 1904 Chief Constable Dewar published in his annual returns a series of tables demonstrating to ratepayers the impact of recidivism on the city's crime figures. These are reproduced and translated into graphs in Appendix 4.4 and 4.5. What they show is that male offenders were most frequently at the court two to three times a year, but when we examine the figures of offenders who appeared in court four times it seems that the women had caught up with the men. For example, between 1876 and 1904, 770 male offenders made four annual court appearances; this was true of 894 female defendants (Appendix 4.4). The graph for five annual court appearances shows clearly that, at this point, women were more likely than men to be repeat offenders (271 appearances were male, 482 female, Appendix 4.4.4). The trend becomes more marked as the number of court appearances increases. It was overwhelmingly women who attended the court six or more times annually.⁶⁵⁵ The disproportion of women to men increased commensurately with the number of trials, culminating in those offenders who were tried up to eighteen times a year being almost exclusively women, as is shown in Table 4.3 below and Appendix 4.1.5. Against this background it is not surprising that in 1884 Chief Constable Dewar observed that the 'women seem much fonder than men of their quarters in prison, and return the oftener'.⁶⁵⁶

⁶⁵⁵ Appendix 4.1.5 and 4.4.5. Similarly *S'man*, 4 November 1897.

⁶⁵⁶ *DYB*, 1884 p. 40 citing Dewar's annual report.

Table 4.3: Male and Female Recidivists before the Police Court from 2 to 18 Times in 1883

1883	Male	Female
2x	413	239
3x	103	60
4x	36	32
5x	8	24
6x	5	17
7x	5	1
8x	0	4
9x	1	2
10x	1	2
11x	0	1
12x	0	2
13x	0	2
17x	0	1
18x	0	1
Total	572	388

From: *DYB*, 1883 p. 44.

As Figure 4.3 below and Appendix 4.5 illustrate, there is also a strong female bias in the data concerning the convictions amassed by Dundee's habitual offenders throughout their criminal careers. The pattern is plain: there are a disproportionate number of women. Several returns show that there were more women than men with between 20 and 30 convictions (1877–1879, 1881–1882).⁶⁵⁷ Even in instances where the women do not dominate the figures, their presence remains striking given that the majority of crime in the city was attributed to men. For example in 1905, 32 men and 17 women had between 20 and 30 convictions each, while in 1915 there were 50 men and 32 women, and in 1925 an equal number of male and female repeat offenders were in this cohort.⁶⁵⁸ The records became overwhelmingly female-dominated as offenders with ever more convictions were logged. The result is that we can be certain

⁶⁵⁷ See Appendix 4.5.

⁶⁵⁸ *PR*, 1905, 1915, 1925 all p.10.

that the recidivists with over 60 previous convictions were most often women.⁶⁵⁹ By drawing on a range of documents we can also be sure that at least twice as many women as men had over sixty convictions throughout the period and, incidentally, women maintained their predominant position in the recidivism statistics into the 1930s.⁶⁶⁰

The overrepresentation of Dundee's female recidivists in the judicial statistics and on the drunkards' register cannot be dismissed as a consequence of police campaigns in the early 1890s (Appendix 4.6.1 and 4.6.2). Neither can the gendering of the evidence be put down to the fact that there were around 17,000 more women than men in the city. The Dundee Parliamentary Burgh 1881 Census reveals that there were 78,839 women to 61,400 men in a total population of 140,239: a gender distribution of 56.2 per cent female to 43.8 per cent male (Appendix 4.7.1).⁶⁶¹ In terms of the age demographic, Appendix 4.7.2 shows that in the 25 – 44 cohort males represented 39.66 per cent and females 60.34 per cent. The calculations based on the census demonstrate that the local demographic balance cannot account for the pronounced imbalance in the recidivism returns because, firstly, they show that the total population of male offenders always outstrips the females (Appendix 4.7.2 indicates the male lead). Secondly, taking into account the demographic imbalance, there are

⁶⁵⁹ That is not to say that there were no men with over 60 convictions. For example, according to the 1905 police report, 11 male recidivists had amassed over 60 convictions in their criminal careers. In that year their female counterparts numbered 21. And while none of the men had over 80 convictions there were 9 women with between 80 and 150. A very similar picture is found in the statistics published in the new century. In 1925 13 male recidivists had between 60 and 100 convictions compared to 27 women. In that year none of Dundee's male repeat offenders had been convicted over one hundred times, whereas the records show six females had between 100 and 210 convictions: *PoR*, 1905 p. 10 and 1925 p. 10.

⁶⁶⁰ This is evident from Dundee's police annual returns in the 1930s, see Appendix 6.

⁶⁶¹ For calculations based on Dundee's 1881 census and 1881 police reports see Appendix 4.7.

twice as many female recidivists as male (Appendix 4.7.4). The table below shows that total male apprehensions, in 1881, reduce by 658 to 3496 when reappearances are considered and for the women the figure reduces by 673 to 1582. Taking into account Dundee's demography, the reappearance figures are thus 658 for males and 673 for female recidivists; this translates to 15.8 per cent and 29.8 per cent respectively.

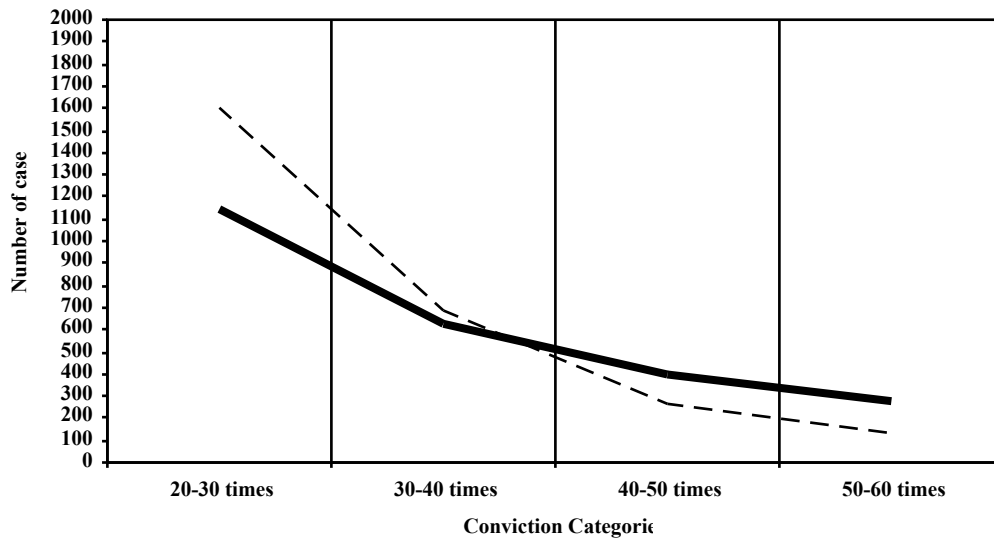
Table 4.4: Male and Female Crime in 1881 as a Percentage of the 1881 Population

Population	Apprehensions	Percentage of given population	Apprehensions total less all reappearances	Percentage of given population	Percentage of reappearances
Male = 61400	4154	$\frac{4154}{61400} \times 100 = 6.8\%$	3496	$\frac{3496}{61400} \times 100 = 5.7\%$	$\frac{658}{4154} \times 100 = \mathbf{15.8\%}$
Female = 78839	2255	$\frac{2255}{78839} \times 100 = 2.9\%$	1582	$\frac{1582}{78839} \times 100 = 2.0\%$	$\frac{673}{2255} \times 100 = \mathbf{29.8\%}$
Total = 140239	6422	$\frac{6422}{140239} \times 100 = 4.6\%$	5078	$\frac{5078}{140239} \times 100 = 3.6\%$	

From: *PoR* and Census 1881.

Having taken what we can from the local statistical evidence it is important to realise that the same curious pattern found in Dundee is replicated in archives across Britain and North America, where demographic irregularities did not exist. The next section will highlight a key feature of Victorian and Edwardian criminality: that although most repeat offenders were male, the archetypal serial recidivist was female. This trait, as far as I am aware, has not previously been collated.

Figure 4.3: Habitual Offenders 1876 to 1904 Total Convictions, Male and Female



The female figures are shown by the bold line
From: *PoR*, 1876–1904.

4.2 a) Gendered Recidivism a National Phenomenon

In Edinburgh, in the years immediately before World War One, judicial commentators found that women who entered the criminal justice system had two and a half times as many convictions as their male counterparts.⁶⁶² In Glasgow, which was well known for its problems with male crime, by far the majority of habitual offenders were women and this trend was repeated throughout urban Scotland. The Commission on Habitual Offending calculated, in 1894, that of offenders imprisoned four times or more 29 per cent were male, 71 per cent female.⁶⁶³ Since Donoghue tells us that

⁶⁶² *S'man*, 1 August 1913, the women had an aggregate of 1587 convictions between them, the men 628. A couple of years later it was reported that there were 8 women accounting for 105 arrests: *S'man*, 16 March 1915.

⁶⁶³ *RHO*, 415, CC Boyle of Glasgow was referring to those with over 4 convictions. The Report also stated that in Scotland in 1894, of habitual offenders imprisoned for

women were the most hardened recidivists in the first half of the nineteenth century it seems that there was a long-term pattern of serial female recidivism in Scotland.⁶⁶⁴

The situation in England was similar. In Liverpool, in 1877, 700 women were responsible for 5,000 committals and the city's Bridget McMullen once held the national record for convictions; in 1897 she had been prosecuted 356 times.⁶⁶⁵

Likewise, in Ireland the proportion of repeat offenders in prison was highest for women.⁶⁶⁶ In Wales Jones identifies what should be by now a familiar pattern of female dominated recidivist records.⁶⁶⁷ Writing in 1890, Havelock Ellis declared the feminine phenomenon had 'everywhere been noted'.⁶⁶⁸ He might have been right, as scholars in North America and Australia have sought explanations for the same gendered scene.⁶⁶⁹

Understanding why Dundee's most serious recidivists in this period were mostly women, when it was men who were most often convicted of crime, is the fascinating

petty crime, four times and upwards in twelve months, 497 were male, 1290 were female: *RHO*, 13,171, pp. xlvi, xxiv.

⁶⁶⁴ Donnachie, 'The Darker Side', pp. 11, 22.

⁶⁶⁵ Macilwee, *The Liverpool Underworld*, pp. 51, 54. Further examples are D'Cruze and Jackson, *Women, Crime and Justice in England*, p. 136, Morrison, 'Ordering Disorderly Women', pp. ii, 115, Hunt, Mellor and Turner, 'Wretched, Hatless and Miserably Clad', p. 247.

⁶⁶⁶ Boyle, 'Women and Crime in Belfast', p. 302, Curtin, 'Female Prisoners in Galway', p. 179. Figures from County Antrim Jail show that during 1895–1896, 162 women and 66 men were committed to the jail twenty times and upwards. The number of convictions for women was 8,411 and for men 2,336. There were 15 women with over 100 convictions but only 1 man: John Moore, 'Habitual Drunkards', *BMJ*, 913 (1878), p. 942.

⁶⁶⁷ Jones, *Crime in Nineteenth-Century Wales*, p. 199.

⁶⁶⁸ Havelock Ellis, *The Criminal* (London, 1890), p. 215.

⁶⁶⁹ John Koren, 'Some Statistics of Recidivism among Misdemeanants in Boston', *Publications of the American Statistical Association*, 7 (1901), p. 6, Phillips, 'Poverty, Unemployment, and the Administration of the Criminal Law', pp. 140–141, Galton, 'Once a Drunkard Always a Drunkard', p. 42.

question that occupies the remainder of this dissertation. We should begin our investigation with the most obvious explanation: drink.

4.3 Why Were Habitual Offenders Typically Women?

The reason Margaret Gow, the city's most persistent female offender, had so many convictions is that she suffered from severe alcohol addiction. From this we might conclude that the recidivism pattern indicates that women suffered greater levels of alcoholism than their male counterparts. However Wilson, in the leading study, presents alcoholism as a masculine condition and, what is more, most patients admitted into Dundee's Royal Infirmary, for alcohol abuse, were men.⁶⁷⁰ In light of this evidence, in order to determine our next steps, it is timely to consider what we can learn from those historians who have analysed the female-dominated recidivism records of North America.

John Weaver and Helen Boritch argue that the same women were repeatedly arrested for public order offences because they were easy to arrest and convey to the station.⁶⁷¹ This theory for the disparity in the conviction rates in the Canadian records, however, does not lend itself well to Dundee. The city's archives record several interactions between recidivist women and the police which imply that it was not unusual for such women—presumably strong through heavy work, and uninhibited by drink—to pose an acute challenge to the law. Catherine Freel struggled so violently with the two

⁶⁷⁰ Wilson, *Alcohol and the Nation*, pp. 277, 280. UDA, THB15/1/4, Dundee Royal Infirmary Admissions' Register 1866–1872 and Annual Reports of Dundee Royal Infirmary 1868–1902. For example, during 1879–1880 6 males and only 1 female were admitted suffering delirium tremens.

⁶⁷¹ Boritch, *Fallen Women*, p. 136. Weaver cited Boritch, 'The Criminal Class Revisited', p. 167. Similarly see Boyle, 'Women and Crime in Belfast', p. 111, Emsley, *The Great British Bobby*, p. 73.

constables trying to arrest her that by the time the eighteen-year-old, blacklisted habitual drunkard, had arrived at the police station 'she was almost nude'. Similarly, four policemen were required to force Anne Lynch into a prison van. Indeed, when both episodes were recounted in court, the (tall, strong and male) constables were teased about their inability to restrain the (small, female) defendants.⁶⁷² A more pertinent theory, put forward by North American scholars, is that the figures relating to females in prison were greatly inflated by prostitution.

Boritch highlights the strong condemnation of streetwalkers in Toronto as a leading factor behind the high female reconviction rate. Similarly, Fingard finds that the visibility of Halifax streetwalkers exposed them to repeated police harassment and routine prosecution.⁶⁷³ Jim Phillips provides a slightly different perspective on the same evidence. He does not mention police harassment, but he does argue that the most important difference between the male and female habitual offenders may have been that only the women were charged with importuning.⁶⁷⁴ Given that Boritch, Fingard and Phillips all point to the regulation of prostitutes in accounting for gendered recidivism records, it is patently worth assessing how their findings might translate to Scotland.

⁶⁷² Lynch had 28 convictions for assault, including a number for assaulting policemen. Before the struggle outside the van she had scratched one policeman's face and had seriously hindered two others from transporting her to the cells, *WN*, 13 March 1880, 11 December 1880 and in keeping with this: 5 March 1887 and *DA*, 3 March 1866. Similarly, Jones found evidence of extremely violent women who could throw policemen to the ground: *Capital Punishments*, p. 30.

⁶⁷³ Boritch *Fallen Women*, p. 136, Fingard, *The Dark Side of Life*, pp. 37, 106.

⁶⁷⁴ Phillips, 'Poverty, Unemployment, and the Administration of the Criminal Law', pp. 134, 140-141.

The theories predicated on the recidivist as a prostitute can certainly be reasonably applied to Victorian Glasgow. Here, Mahood argues, the police authorities pursued a strictly repressive approach towards prostitution.⁶⁷⁵ Consequently the active regulation of the vice trade may explain why some of that city's female recidivists had amassed over 800 previous convictions each.⁶⁷⁶ Interpreting Dundee's soliciting figures, which, incidentally, were six times lower than Glasgow's, does not, however, bring an understanding of the recidivism records any closer.⁶⁷⁷ This is because they do not suggest that prostitution was an area of strict control. Still, if as was mentioned in Chapter 2, prostitutes were charged with drink-related offences rather than importuning, the policing of prostitutes may have been responsible for the disparity in the recidivism records after all. Modern criminology provides us with an important interpretative framework for such a scenario, and by applying sociological theories to the study of the female recidivist this dissertation extends the work of previous British crime histories.

It is well established amongst feminist criminologists that females are more stringently monitored and corrected than males. Therefore interpreting the local evidence on female recidivism from a social scientist's perspective would lead us to suspect that 'persistent criminality' was not, as a contemporary declared, 'far worse' in women than in men, but that women recidivists were apprehended and convicted

⁶⁷⁵ For a discussion of repressive policing in Glasgow: Mahood, *The Magdalenes*, pp. 124-5, 143. But, as will be shown in Chapter 5, Goldsmith finds contradictory evidence for Glasgow in the last quarter of the century: 'The Development of the City of Glasgow Police', pp. 336, 340-364.

⁶⁷⁶ *RHO*, 415.

⁶⁷⁷ *RHO*, Appendix II. This is not the only difference between the police forces; boys were not birched in Dundee, but they were in Glasgow.

more frequently.⁶⁷⁸ As will be seen in the next section, it is a common view amongst criminologists that the enforcement of sex-role expectations, rather than criminal behaviour, is all that is preserved in the crime archives.

4.4 A Debt Owed to Sociology

According to the evidence, Dundee's most serious habitual offenders were arrested more or less on a monthly basis. Jessie Sutherland Roberts, for example, appeared at the police court five times for drunkenness between January and March 1875, by which time the records reveal she had amassed twenty-seven convictions. We learn that Mary O'Brien had sixty convictions for drunk and disorderly behaviour in 1871, four years later she had ninety-three, and indeed we meet her in the police court on a Wednesday morning, just hours after finishing a prison sentence of sixty days.⁶⁷⁹ Social scientists would tell us that this information is evidence of police and judicial activity, rather than a record of the behaviour of Roberts and O'Brien themselves, because, they would argue, the criminal justice system and the press socially construct criminality.

In Chapter 5 we will try to determine the extent to which Dundee's recidivism records reflect gender-based social control policies. Our present purpose is to establish the foundation for what lies ahead, and so our next task is to introduce the theories that will frame the forthcoming analysis. We begin with the overarching labelling concept before considering to what extent its offshoots—the feminists' double deviance

⁶⁷⁸ Adam, *Women and Crime*, p. 6, Macdonald, 'Whisky, Women and the Scottish Drink Problem', p. 138.

⁶⁷⁹ *WN*, 13, 16, 24 March 1875 and 3, 19 July 1879.

premise and the moral panic formula—are relevant to the study of Dundee’s persistent re-offenders.

4.4 a) Female Recidivists: Were They Labelled Bad?

‘The person becomes the thing he is described as being ... [the] process of making the criminal ... is a process of tagging, defining, identifying, segregating, describing, emphasising’. So wrote F. Tannenbaum, in 1938, in an early formulation of the sociologist’s labelling theory.⁶⁸⁰ According to labelling theorists crime is not a fixed essence, but rather criminality is a label – socially constructed by the prejudice of the police, judiciary and other agents of social control, such as the media, whose representations of crime contribute to a construction of reality.⁶⁸¹

Theorists advocate that the labelling process occurs in two ways. Firstly, they argue that the police and judges are more influenced by the stereotypes associated with age, race, class and gender than by the characteristics of the offence itself. The result is that the police do not treat all members of the public alike. They subject certain groups to extra surveillance, arrest their members on the slightest suspicion and, at times, display their prejudice through violence. The women who violate the feminine ideal—by being loud, aggressive and disrespectful—are more likely to provoke a severe reaction from the police, it is suggested, than men with a similar demeanour.⁶⁸²

⁶⁸⁰ Quoted in David A Jones, *History of Criminology a Philosophical Perspective* (New York, 1986), p. 169.

⁶⁸¹ Donnachie, ‘Scottish Criminals and Transportation to Australia’, pp. 31-35, Chesney-Lind, ‘Women and Crime’, p. 78.

⁶⁸² Gresham M Sykes, *Criminology* (New York, 1978), p. 387, Eric A Stewart and Eric P Baumer, ‘Neighborhoods Racial Context and Perceptions of Police-Based Racial Discrimination among Black Youth’, *Criminology*, 47 (2009), 847-887. On

As far as the repeat offender is concerned, the negative stereotype associated with having a prior criminal record means that recidivists are subjected to increased social control. Secondly, labellists argue that administrative factors, such as changes in the character of policing and prosecution, as well as alterations to legislation, all impact on social perceptions (the labelling) of what is acceptable and unacceptable behaviour, which in turn affects crime rates.⁶⁸³

The impact of labelling theory has been huge. Many theories build on the premise that crime is a label and investigating how crime reports promote damaging stereotypes has become an established branch of criminology.⁶⁸⁴ What is more, historians frequently draw upon labelling precepts.⁶⁸⁵ Julia Laite has traced the impact of social stereotypes in the past. An ‘ordinary woman’, she writes, ‘could stand on the street quietly for hours, buying gloves, watching passers-by, or waiting for an omnibus,’ but when a woman who had been labelled a prostitute did this she risked being arrested

women see: Edwards, *Women on Trial*, p. 122, Pat Carlen and Anne Worrall, eds, *Gender, Crime and Justice* (Milton Keynes, 1987), p. 20, Jonathan Martin and others, ‘What Works for Women? A Comparison of Community-Based General Offending Programme Completion’, *British Journal of Criminology*, 49 (2009), p. 880, L K Kasinski and others, *Hard Lives, Mean Streets: Violence in the Lives of Homeless Women* (Boston, 2010), p. 124.

⁶⁸³ See Charles David Phillips and Simon Dinitz, ‘Labelling and Juvenile Court Dispositions: Official Responses to a Cohort of Violent Juveniles’, *The Sociological Quarterly*, 23 (1982), p. 268.

⁶⁸⁴ Carrabine, *Criminology*, p. 335.

⁶⁸⁵ A sample illustrating the popularity of labelling theory amongst historians includes: King, ‘Female Offenders, Work and Life-Cycle Change’, p. 70, Karen Dubinsky and Franca Lacovetta, ‘Murder, Womanly Virtue, and Motherhood: The Case of Angelina Napolitano, 1911–1922’, *Canadian Historical Review*, LXXII (1991), p. 506, John A Stack, ‘Children, Urbanization, and the Chances of Imprisonment in Mid-Victorian England’, *Criminal Justice History*, 13 (1992), pp. 115–116, Robert Jütte, *Poverty and Deviance in Early Modern Europe* (Cambridge, 1999), p. 158, John P Locker, ‘Quiet Thieves, Quiet Punishment’: Private Responses to the ‘Respectable’ Offender c 1850–1930’, *Crime, History and Societies*, 9 (2005), p. 23.

for soliciting.⁶⁸⁶ As we saw in Chapter 1, Zedner, amongst other scholars of Victorian female criminality, is convinced that attitudes influenced the position of women in the records. By contending that judges assessed the seriousness of female crime in terms of the defendants' failure to live up to the feminine ideal Zedner is using the labelling argument to show that a perverse logic underlay the allocation of sanctions to women in the dock.⁶⁸⁷

As we saw in Chapter 1, Howard Taylor has been vociferous in claiming criminal statistics are socially constructed accounts of deviance rather than records of actual criminality. His view has found several supporters amongst historians of recidivism. When researching Lancashire, David Taylor uncovered evidence of administrative factors, including police resources, local politics and the attitudes of the judiciary which influenced the number of habitual criminals prosecuted. Others have suggested that the police exaggerated the threat re-offenders posed in order to justify improvements in the machinery of control, and this is to say nothing of those scholars who believe that the very concept of the habitual criminal was 'artificial'.⁶⁸⁸ But what about Dundee? Is there sufficient evidence to support the application of labelling theory to the city's gendered recidivist records?

⁶⁸⁶ Julia A Laite, 'Taking Nellie Johnston's Fingerprints: Prostitutes and Legal Identity in Early Twentieth-Century London', *History Workshop Journal*, 65 (2008), p. 108.

⁶⁸⁷ Zedner, 'Women Crime and Penal Responses', p. 321 and in Chapter 1.

⁶⁸⁸ Taylor, *The New Police in Nineteenth-Century England*, pp. 50, 103 also S J Stevenson, 'The 'Habitual Criminal' in Nineteenth-Century England: Some Observations on the Figures', *Urban History Year Book*, 13 (1986), p. 41, Williamson, 'Policing a Myth, Managing an Illusion', p. 56, Petrow, *Policing Morals*, p. 49, Imogene L Moyer, 'Police Processing of Female Offenders', in Lee H Bowker, *Women and Crime in America* (New York, 1981), p. 370.

Table 4.5: The Number of Men and Women With Over 60 Convictions 1883–1925

	Male	Female	Ratio
1883	0	21	21x
1884	0	22	22x
1885	0	24	24x
1886	1	25	25x
1887	6	22	4x
1888	5	25	5x
1889	5	31	6x
1890	4	30	7.5x
1893	4	19	5x
1894	3	32	10x
1895	6	26	4x
1896	4	27	7x
1897	6	19	3x
1900	9	27	3x
1901	9	31	3x
1902	6	27	4.5x
1905	3	12	4x
1908	12	23	2x
1915	12	27	2.25x
1920	13	33	2.5x
1925	12	25	2x

From: *DYB*, 1883–1905 and *PoR*, 1905–1925.

Clues that various administrative factors impacted on Dundee’s recidivism records are to be found within the city’s inebriate register and in the local police figures. In due course we will look in detail at the drunkards’ register, but all we need to know for the time being is that the entry dates tell us that officers set aside specific days for dealing with persistent drunks. That is, police activity, rather than the behaviour of the offenders, determined when arrest and registration occurred.⁶⁸⁹ Perhaps the dates coincided with the presence of the photographer? Similarly, police zeal in the run-up to the 1894 Scottish Commission on Habitual Offending, probably explains the incongruous patterns concerning the number of prostitutes arrested in Dundee around

⁶⁸⁹ *DIR*, inebriates numbers 24 and 25, for example, were both arrested on 28th June and again on 29th July and inebriates numbers 27 and 28 on 10th July and again on 29th July.

that time.⁶⁹⁰ As we saw in Chapter 1, Chairman McHardy was keen to account for the sharp increase in the submitted figures.⁶⁹¹ In fact, our picture of recidivism over the sixty-year period of this study appears to reflect the impact of policing. Table 4.4 (above) illustrates that the ratio of male to female serial recidivists shifted dramatically over the decades. In the early 1880s, women were around twenty times more likely than men to have been convicted over 60 times. By 1925 women were only twice as likely to have such a high tally. That difference was surely not due to changes in ‘real’ criminality.

Labelling theory alerts us to the importance of what contemporaries thought about female offending. Thus in our quest to understand the gendered nature of the recidivism records, the next section will explore what was written about female criminals in the period. According to the previous studies, the European and North American criminologists of the period perpetuated the long tradition of negative stereotypes associated with women who behaved unconventionally.⁶⁹²

4.4 b) ‘Such Women Will Deceive In Every Possible Way’: The Female Offender in Victorian and Edwardian Literature

Criminology did not exist as a professional academic discipline before 1935.

Nevertheless, in the period of this study, psychiatric doctors working in prisons, prison chaplains, as well as anthropology, sociology and psychology theorists were

⁶⁹⁰ In 1892, 57 women were apprehended for importuning. The figure peaked at 335 the year later and the number of prostitutes arrested rapidly fell back again in the following years: see Appendix 2.1 for figures.

⁶⁹¹ See Chapter 1 Section 1.2 b) Police statistics: ‘abysmally deficient and wretchedly ambiguous’.

⁶⁹² For a discussion of the long tradition of prejudice see Jack Holland, *Misogyny: The World’s Oldest Prejudice* (London, 2006).

actively researching the causes of crime and the treatment of offenders.⁶⁹³ Their findings were presented in prison reports and publications such as *The British Medical Journal* and *The Journal of Mental Science*, often under ‘the Authority of the Medico-Psychology Association of Great Britain and Ireland’.⁶⁹⁴ Anja Johanson has recently argued that scholarly attention should be paid to the question of how best to define Victorian and Edwardian criminologists and in Chapter 6 we will do just that.⁶⁹⁵ Here, given that our fundamental concern is with what contemporaries wrote about female offenders, it is appropriate to refer to nineteenth- and early twentieth-century criminologists as prison scientists and members of the medico-psychology community.⁶⁹⁶

The archives are well stocked with Victorian and Edwardian prison science declaring that women offenders were more deviant and disruptive to society than their male

⁶⁹³ David Garland, ‘British Criminology before 1935’, in Muncie, McLauchlin, and Langan, eds, *Criminological Perspectives*, p. 58.

⁶⁹⁴ Doctors were influential outside of medical circles; in the literature we find references to ‘medico-legal’, ‘medico-parliamentary’, and ‘medico-social’ committees. Sources identifying the medico-psychological association with doctors in asylums and prisons studying crime include: Unknown, ‘Medico-Psychological Association’, *BMJ*, 1961 (1895), pp. 335-336, 2693 (1912), pp. 313-314.

⁶⁹⁵ Anja Johansen, ‘Review of ‘Criminals and their Scientists: The History of Criminology in International Perspective’, by Peter Becker and Richard F Wetzell’, *Crime, History and Societies*, 14 (2010), p. 161, also see Peter Becker, ‘Criminological Language and Prose from the Late Eighteenth to the Early Twentieth Centuries’, in Amy Gilman Srebnick, René Lévy, eds, *Review of Crime and Culture: An Historical Perspective*, (Ashgate, 2005), pp. 23-37.

⁶⁹⁶ Garland refers to the ‘medico-legal science’ / ‘medico-legal framework’ sponsored by the penal and psychiatric establishment within which ‘criminological science’ was first developed: ‘British Criminology before 1935’ pp. 56-57. Also see Craig Haney’s reference to ‘prison scientists’: ‘Criminal Justice and the Nineteenth-Century Paradigm: The Triumph of Psychological Individualism in the ‘Formative Era’’, *Law and Human Behaviour*, 6 (1982), p. 213. Several scholars refer to Victorian and Edwardian criminologists and criminology even though the word ‘criminology’ is rarely found in the sources. For example, Peter Becker and Richard F Wetzell, eds, *Criminals and their Scientists: The History of Criminology in International Perspective* (Cambridge, 2006), p. 4.

counterparts, and that they were incapable of reform, though men were not.⁶⁹⁷ In the popular *Female Life in Prison* (c. 1889), for example, the ‘prison matron’ describes how the behaviour of the ‘worst’ male inmates cannot match that of the female prisoners.⁶⁹⁸ In much of the literature no adjectives were too strong to describe the woman criminal: she was ‘abnormal’, ‘unnatural’, ‘evil’, ‘a monster’ and ‘a witch’.⁶⁹⁹

On one side, the dominant ideology of the medico-psychology community was framed by the traditional Christian dichotomy between good and bad women (the pure Mary and sinful Eve). This was summarized in Tennyson’s lines ‘[f]or men, at most, differ as Heaven and earth,/ But women, worst and best, as Heaven and hell’, and it is also echoed in the extract with which this chapter opened.⁷⁰⁰ On the other side, the discourse was framed by the mainstream view that females were ‘naturally’ gentle, pure, maternal and teetotal. Cesare Lombroso, the Italian prison scientist and anthropologist, whose influence suffused the discourse, used evolutionary theory to contend that as women were ‘naturally’ caring and nurturing those who committed crimes must be biologically defective.⁷⁰¹ In *The Female Offender* (1885), ignoring the possibility that social factors could influence a woman’s appearance, he argued that their fundamental pathology was evident in their looks. Incidentally, the respected

⁶⁹⁷ Lombroso is commonly regarded as the first criminologist.

⁶⁹⁸ Henry Maudsley, ‘Review of ‘Female Life in Prison by Prison Matron’’, *Journal of Mental Science*, IX (1889), p. 69.

⁶⁹⁹ Owen, ‘Criminal Women’, p. 153, Sir Cyril Burt, *The Young Delinquent* (London, 1925, reprinted 1961), p. 217, W D Morrison, ‘Reflections on the Theories of Criminality’, *Journal of Mental Science*, XXXV (1889), p. 14.

⁷⁰⁰ Maudsley, ‘Review of ‘Female Life in Prison’’, p. 76.

⁷⁰¹ Caesar Lombroso and William Ferrero, ‘Criminals and Prostitutes’ (1895) in Freda Adler and Rita James Simon, *The Criminology of Deviant Women* (Boson, 1979), pp. 10-13. For an overview of Lombroso and biological determinism: Campbell, *Girl Delinquents*, p. 5.

Reverend W. D. Morrison, chaplain of Wandsworth Prison, wrote the introduction to the English edition of Lombroso's treatise on biological determinism.⁷⁰²

Lombrosian-inspired prison science went on to assert that sexual deviance was central to female criminality and prostitution was the female functional equivalent of male crime.⁷⁰³ Discussions of the challenges that the prostitute presented to civilised society abound in nineteenth- and early twentieth-century crime literature. Given that the prostitute was deemed to be suffering from extreme maladjustment, and that she was considered to epitomize female depravity, it is no surprise, therefore, that the third trope guiding the medico-psychological community—that the female criminal and the prostitute were one and the same—was, as Elizabeth Langen describes, 'engraved in stone'.⁷⁰⁴

The fourth principle guiding the medico-psychological community was the belief that women were physically and mentally inferior to men; they were ruled by emotion rather than reason.⁷⁰⁵ By the turn of the century, the view that a woman's emotional sensitivity made her inherently prone to insanity fuelled the perception that women offenders were 'more mad than bad', and they were consequently more likely to be

⁷⁰² Professor Caesar Lombroso and William Ferro, *The Female Offender* (London, 1895), p. 153. On the popularity of the idea that a woman's appearance was a mirror to her character: John Baker, 'Insanity in English Local Prisons 1894–9', *Journal of Mental Science*, XLII (1896), p. 299.

⁷⁰³ Dodge, 'Whores and Thieves', pp. 15–18, 163.

⁷⁰⁴ Langdon, 'Female Crime in Calgary', pp. 295, 308. Similarly: Heather Shore, *Artful Dodgers: Youth and Crime in Early Nineteenth-Century London* (Suffolk, 2002), p. 11, Zedner, *Women, Crime and Custody*, p. 44, Ann-Louise Shapiro, *Breaking the Codes: Female Criminality in Fin-de-Siècle Paris* (Stanford, 1996), p. 22, Morrison, *Crime and its Causes*, p. 187.

⁷⁰⁵ See Judith Rowbotham, *Good Girls Make Good Wives: Guidance for Girls in Victorian Fiction* (Oxford, 1989), p. 57, Urwick, *Studies of Boy Life*, p. 233.

integrated into the psychiatric model of crime.⁷⁰⁶ From the early twentieth century, prison science was dominated by talk of the incurably feeble-minded and degenerate offender. Everything from criminality, alcoholism, and poverty was explained, directly and indirectly, by mental deficiency – that is, low intelligence. The female sex was singled out as being more feeble-minded than the male sex. Such feeble-minded women were deemed responsible for the genetic contamination of her offspring. And the most feeble-minded women of all were prostitutes. The evidence of a woman's inability to make 'correct' moral judgments became a key symptom with which to identify the condition. Thus an unwillingness to submit to prison discipline, or continued criminality was used to make a diagnosis.⁷⁰⁷ While British prison scientists often thought that female recidivists ought to be permanently incarcerated to safeguard the health of the nation, American eugenicists argued the 'best possible service to time and eternity [was] to get rid of them altogether.'⁷⁰⁸

⁷⁰⁶ This point is covered extensively in the secondary literature: Stephen Jones, *Criminology* (London, 2001), p. 292, David Downes and Paul Rock, *Understanding Deviance: A Guide to the Sociology of Crime and Rule-Breaking* (Oxford, 2007), p. 260.

⁷⁰⁷ Zedner, 'Women, Crime and Penal Responses', pp. 346-7. Similarly Linda Kealy, ed, *Women at Work Ontario, 1850–1930* (Ontario, 1974), p. 45, Lucy Bland, *Banishing the Beast: English Feminism and Sexual Morality 1885–1914* (London, 2001), p. 240. A useful primary source in which to see this is J F Sutherland, 'Recidivism Regarded from the Environmental and Psycho-Pathological Standpoints', *Journal of Mental Science*, LIV (1908), 68-93.

⁷⁰⁸ Dodge, 'Whores and Thieves', p. 93, Maudsley, 'Review of 'Female Life in Prison'', p. 72. From the last quarter of the nineteenth century there was a succession of American studies purporting to show that various dysfunctional traits ran in bloodlines. The authors were some of the earliest eugenicists and they had a significant influence on social policy in the US (thousands of women were sterilized, and there was a shift away from a policy of training and release to life confinement for the feeble-minded). R Dugdale's *The Jukes: A Study in Crime, Pauperism, Disease and Heredity* (New York, 1912) was the originator of the family study approach. For a summary and of his followers see: Nicolas F Hahn, 'Too Dumb to Know Better Cacogenic Family Studies and the Criminology of Women', *Criminology*, 18 (1980), pp. 6, 10. On eugenics: 'Keep the Life Stream Pure: The Psychopathic Laboratory', cited in Willrich, *City of Courts*, pp. 241-281. That eugenics was predominately an American response to social problems is apparent

According to the feminist research, there was no liberation of the female offender from the misogynist criminological discourse within the period of this study. Beliefs about women's crime, it is argued, remained captive to perceptions of deep-rooted psychological deficiencies inherent in female biology until the advance of pioneering feminist forces began to make an impression in the 1970s and 80s.⁷⁰⁹ In Chapter 6 an alternative version of criminology's history is provided. Until then, however, our analysis is predicated on the assumption that although multi-causal and sociologically determined theories increasingly dominated thinking about male crime, as far as women were concerned, the trajectory established in the nineteenth century that understood female criminality in psychological and biological terms remained dominant. Thus recidivistic women continued to be discussed from a biological rather than a social perspective.

To modern eyes the misogynist criminological discourse appears, to quote Gavigan, 'almost beyond absurd'.⁷¹⁰ Yet, as Boritch stresses, it is important to recognise that it

from a comparison with W C Sullivan's 'The Causes of Inebriety in the Female, and the Effects of Alcoholism on Racial Degeneration', *The British Journal of Inebriety*, 1 (1903), 61-64 and Harvey G Simmons, 'Explaining Social Policy: The English Mental Deficiency Act of 1913', *Journal of Social History*, 11 (1978), 387-403. In Scotland, however, Dobash and McLaughlin argue that discourses on habitual offenders were 'profoundly linked to the National Eugenics Movement': 'The Punishment of Women', p. 79.

⁷⁰⁹ On the development of feminist criminology: Loraine Gelsthorpe and Allison Morris, 'Feminism and Criminology in Britain', *British Journal of Criminology*, 28 (1988), p. 98, Dodge, *Whores and Thieves*, p. 163.

⁷¹⁰ Gavigan cited in Boritch, *Fallen Women*, p. 53. Similarly Clive Emsley describes the 'prejudices and blindspots' of the crime theorists: 'Crime in Nineteenth-Century Britain', *History Today*, 38 (1988), p. 45. Dobash, Dobash and Gutteridge observe that scientists were 'quite *breathtaking*' in the ferocity with which they described women as depraved: cited Dodge, *Whores and Thieves*, p. 15. An example of this absurd theorising is W I Thomas' dismissal of the possibility that female lawlessness had economic roots in the 1920s. He reasoned that '[l]ife' was 'rarely so hard that a

originated during a period when science was believed to be unlocking the mysteries of numerous social problems, including criminality.⁷¹¹ What is crucial for our purposes is that most crime historians and feminist scholars maintain that ideas founded on biological determinism were a significant influence on nineteenth- and twentieth-century criminal law and on the operation of the criminal justice system. In an English context Bronwyn Morrison observes that the ‘truth’ of the ‘expert’ ‘scientific’ discourse was accepted.⁷¹² Sangster is convinced that Canadian magistrates were influenced by the prevailing crime theories.⁷¹³ And Graff goes so far as to conclude that, in the mid-nineteenth century, ‘we cannot doubt that the agencies of law enforcement and justice, the constabulary and the courts, accepted the dominant explanations of criminality’. His finding is based on the fact that the groups stereotyped as offenders by the Canadian medico-psychology community happened to be those convicted in the greatest number by the country’s courts.⁷¹⁴

young woman [could] not earn her bread’, cited Laura Crites, ed, *The Female Offender* (Toronto, 1978), p. 16.

⁷¹¹ Ibid.

⁷¹² Morrison, ‘Ordering Disorderly Women’, p. 117.

⁷¹³ Sangster, ‘Pardon Tales’, p. 181.

⁷¹⁴ Harvey J Graff, ‘“Pauperism, Misery and Vice”: Illiteracy and Criminality in the Nineteenth Century’, *Journal of Social History*, 11 (1977), pp. 258, 262. Graff argues that the Canadian authorities accepted the dominant explanations of criminality, but his figures show that prostitutes were convicted less often than virtually all other female offenders, indicating that magistrates were not applying the criminological theories: pp. 262-264. Godfrey, Cox and Farrall, recognise the importance of the medical and the ‘criminological tracts of the period’: *Criminal Lives*, p. 4. Similarly: Shelly Gavigan, ‘Women’s Crime: New Perspectives and Old Theories’, in Adelberg and Currie, eds, *Too Few to Count*, p. 49. Also Edward Sagarin advocates that justice practitioners embraced and expounded similar beliefs to physicians and psychologists due to their shared social background: *Taboos in Criminology* (London, 1980), p. 87. And making the point that discriminatory theories were applied by the criminal justice authorities: Knox and McKinlay cite Gatrell ‘The Policeman State’, pp. 252-3: ‘Crime, Protest and Policing in Nineteenth-Century Scotland’, p. 202.

We do not have to search too hard for evidence of the practical application of the dominant criminological discourse on British female offenders. In 1880 the governor of Millbank Prison declared that ‘all’ 250 female prisoners under his charge were ‘mad’.⁷¹⁵ Two decades later, ‘80 per cent of the women’ tried at a London police court were deemed to be insane ‘beyond question.’⁷¹⁶ In the 1930s, experts continued to reason that female prisoners were ‘almost without exception ... in some form or other psychopathic’.⁷¹⁷ Moreover, the influence of the Darwinian-style biological explanations for prostitutes’ behaviour has similarly spanned the decades.⁷¹⁸ As for Scotland, it seems that the Lombrosian view defined the culture of Perth Prison where, it should be noted, some of Dundee’s females were detained; for we read that Dr Thompson observed the female inmates all possessed ‘a sinister and repulsive expression.’⁷¹⁹ Likewise, the Lombrosian view of female offenders is apparent in the 1925 Scottish Prison Commissioners’ report: girl offenders, it stated, were ‘always more difficult than the boys’.⁷²⁰

Since scholars are convinced that the criminal justice system on both sides of the Atlantic was influenced by the discourse of medico-psychology, it is fair to assume that treatises on women’s biological and psychological ‘inferiority’ impacted on Dundee’s courts and constabulary. Setting the city’s recidivism statistics in this context may explain the overrepresentation of women offenders. Having reached this position by pursuing the labelling precept, it is worth considering whether any other

⁷¹⁵ Quinton, *Crime and Criminals 1876–1910*, p. 42.

⁷¹⁶ Holmes, ‘The Criminal Inebriate Female,’ p. 70.

⁷¹⁷ Pailthorpe, *What we put in Prison and Preventive and Rescue Homes*, p. 39.

⁷¹⁸ Hobson, *Problems of Poverty and Inquiry into the Industrial Condition of the Poor*, p. 467.

⁷¹⁹ William James Forsythe, *The Reform of Prisoners 1830–1900* (London, 1987), p. 180.

⁷²⁰ *PR*, 1925 p. 427.

modern criminology theories deserve scrutiny. The most obvious candidate, since it specifically concerns the experience of women offenders, is a labelling offshoot: the concept of double deviance.

4.4 c) Just Because I'm a Woman: The Concept of Double Deviance

We know that Dundee's most persistent female offenders were prostitutes and habitual drunkards, and that, in a nutshell, they were the negation of all that was deemed feminine. The finding that there was a disproportion of women in the city's recidivism records may be evidence that the police and judiciary, as well as society at large, were involved in the enforcement of traditional sex-role expectations. This, at least, is what feminist criminologists advocate. Their double deviance theory holds that, as a consequence of the overall female crime rate being so low, the women who *do offend* are seen to be twice (doubly) as deviant as men. The premise continues that female offenders are doubly punished, once for committing the crime and a second time for transgressing the expectation that 'normal' women are delicate, domestic and moral.⁷²¹

'[M]an is the worker, the bread-winner, who fights the battle of life; the woman is the dependent, looking to man for protection and nourishment'. This was how, in 1914, Hargrave Adam—whose words opened this chapter—defined the 'well-ordered

⁷²¹ The theory is discussed in depth by Chesney-Lind, "Women and Crime", pp. 91-2, Carlen, *Gender, Crime and Justice*, p. 20. The 'evil-woman effect' is somewhat similar, although it states that women accused of more 'manly' crimes, particularly of a violent nature, are sanctioned more harshly than men as well as more severely than women charged with more traditional offences. On this see Dodge, *Whores and Thieves*, p. 111.

scheme of natural things'.⁷²² Historians are in no doubt that the English-speaking world was framed by such a belief.⁷²³ Studies of the period refer to the strong relationship between a woman's appearance, her behaviour and how she was perceived or, for our purposes, labelled.⁷²⁴ Scholars argue that the idealized vision of the Victorian and Edwardian female as a good wife and mother meant that those women who failed to meet such social expectations were criticized in the harshest terms, and were doubly punished for behaviour that was tolerated in men.⁷²⁵

It has been argued, and not only by feminist scholars, that gender bias pervaded the criminal justice systems of the past. The crime historian David Taylor observes of the nineteenth century: 'female criminals were doubly damned. Not only had they broken the law, but by their very criminality they had transgressed the norms of femininity.'⁷²⁶ Zedner has shown that women were over-represented in the Victorian drunkenness and assault records because misbehaviour attracted more opprobrium when the culprit was female.⁷²⁷ And Morrison finds that the predominance of women in the Edwardian inebriate reformatories rests on a mixture of stark double standards between male and female criminality and misogynist prison science.⁷²⁸ If double

⁷²² Adam, *Women and Crime*, p. 17.

⁷²³ For example: Boritch, 'Gender and Criminal Court Outcomes', p. 301, Alison Young, 'Wild Women': The Censure of the Suffragette Movement', *International Journal of the Sociology of Law*, 16 (1988), p. 291, Clarice Feinman, 'An Historical Overview of the Treatment of Incarcerated Women: Myths and Realities of Rehabilitation', *The Prison Journal*, 63 (1983), pp. 13-14.

⁷²⁴ For example Gunn, *The Public Culture of the Victorian Middle Class*, p. 44, Conley, *Certain Other Countries*, p. 69, Petrow, *Policing Morals*, p. 217.

⁷²⁵ Richard J Evans, *Tales from the German Underworld: Crime and Punishment in Nineteenth Century Germany* (London, 1998), p. 181, Boritch, 'Gender and Criminal Court Outcomes', p. 297.

⁷²⁶ Taylor, *Hooligans, Harlots and Hangmen*, pp. 118, 197.

⁷²⁷ Zedner, *Women, Crime and Custody*, p. 34 and 'Women, Crime, and Penal Responses', p. 317.

⁷²⁸ Morrison, 'Ordering Disorderly Women', pp. 253, 144.

standards influenced the treatment of female offenders elsewhere it is reasonable to suspect that discrimination explains why we find that Dundee's most persistent offenders were women.

The double deviance theory is relevant to Dundee in spite of the fact that the city's women had a reputation for rejecting culturally prescribed gender roles.⁷²⁹ Certainly mill-girl culture was shockingly unladylike, and it is true that those women who were the family breadwinners made a mockery of social stereotypes.⁷³⁰ That said, the unconventional employment setup did not undermine traditional values. As was demonstrated in Chapter 2 Dundee's working class tended to embody cultural constructions of respectability. The double deviance theory also applies to this study because Dundee was undoubtedly patriarchal.

Women's lack of property rights, their low wages and their lack of authority, in an industry where the adult males who *were* employed were paid more and were in supervisory positions, ensured the male dominance of this so-called 'female town'.⁷³¹ In the city's newspapers we repeatedly encounter gender stereotypes. *Weekly News* readers, for example, were reminded that 'the inborn love of Home ... [was] begotten

⁷²⁹ Cited in Wainwright, 'Constructing Gendered Workplace 'Types'', p. 479.

⁷³⁰ Whatley, *The Diary of John Sturrock*, and Gordon, *Women and the Labour Movement*, pp. 157, 210.

⁷³¹ Arthur McIvor and J D Young observe that Scottish working-class society was intensely patriarchal. Long habituation and socialisation meant that the stereotypical gender roles were accepted as part of the fabric of everyday life: 'Women and Work in Twentieth Century Scotland', in A Dickson and J H Treble, *People and Society in Scotland Volume III 1914–1990* (Edinburgh, 1992), pp. 138, 150. Patriarchy is apparent in the true-to-life stories by the local author Elizabeth Dye: *Tales of Old Dundee*, p. 30. In contrast, in the Lancashire weaving towns, at the turn of the century, there was almost equality of pay between male and female weavers and this undermined the father's authority in the home: Steedman, *Landscapes for a Good Woman*, pp. 99, 117.

of perfect Motherhood'.⁷³² The inescapable fact is that throughout the period Dundee's respectable citizens endorsed this view, notwithstanding the size of the female workforce and that men were commonly dependent on the earnings of their women-folk.⁷³³ Because the press is a barometer of the public attitudes that may have shaped the response of the criminal justice apparatus to female recidivists, it is significant that, as will be shown next, double standards and cultural constructions are common motifs in the local trial reports.⁷³⁴

4.4 d) 'MARY ANN SCORES HER CENTURY': Recidivists in the Dundee Press

Dundee's journalists sensationalized female criminality in a manner not seen with male miscreants. They could be sarcastic when commenting on the behaviour of women in the dock – a recognised press tactic used to titillate and interest readers.⁷³⁵ Dundonians were lured to the police-court columns by sarcastic headlines such as 'A VERY AFFECTIONATE MOTHER', and 'A "FAIR" ROWDY KICKING THE POLICE'.⁷³⁶ Women charged with assault were mockingly called '[l]ady brawlers', '[y]oung lady prize fighters' and '[d]istinguished ladies'.⁷³⁷ The sarcastic use of the

⁷³² *WN*, 21 August 1915, 10 March 1923.

⁷³³ When questioned by the Social Union several married women expressed the view that men should be paid more so that 'wives would then have no need to work', see *DSU*, pp. 72-3, similarly *C*, 23 September 1893.

⁷³⁴ A similar view is expressed by Feinman: 'An Historical Overview of the Treatment of Incarcerated Women,' p. 12 and Andy Croll, 'Naming and Shaming' in Late-Victorian and Edwardian Britain', *History Today*, 47 (1997), p. 3.

⁷³⁵ Grace, 'Female Criminality in York and Hull,' p. 312, Anne Blatz Rodrick, "Only a Newspaper Metaphor": Crime Reports, Class Conflict, and Social Criticism in Two Victorian Newspapers', *Victorian Periodicals Review*, 29 (1996), p. 4.

⁷³⁶ *WN*, 12 June 1876, 20 March 1880, 2 March 1879.

⁷³⁷ The specific examples provided were taken from *WN*, 5 April 1890, 13 March 1875, 19 March 1887, 26 September 1885. Even the briefest study of the press court columns will reveal language such as this and it was not a habit peculiar to the *Weekly*. See *C*, 31 August 1877, 12 December 1878, 27 February 1890. For similar

conventionally middle-class word ‘ladies’ was, incidentally, used by Georgians to refer to prostitutes.⁷³⁸ Since ‘SHAMELESS WOMAN’, ‘VIOLENT VIRAGO’ and ‘AMAZONIANISM’ were other headlines common in Dundee’s press, it is interesting that virago was synonymous with whore, and that Amazons was a derogatory term traditionally applied to non-submissive women.⁷³⁹ Clearly, as elsewhere, Dundee’s editors used language to reinforce notions of gender.⁷⁴⁰

The local press often presented male and female offenders differently. Presumably readers often overlooked accounts of the male labourers in court since they were only infrequently greeted by headlines highlighting their presence. A reading of the newspapers also shows that when trials involved male and female co-defendants the female partner often received most press attention. Samuel McCulloch and Ann Lynch were both arrested for assaulting a police officer, yet the headline, ‘A WOMAN WITH FELINE PROPENSITIES’, singled Ann out for scratching the Bobby’s face.⁷⁴¹ Likewise, when a husband and wife were charged with assaulting their neighbours, the headline—‘A FIGHTING FEMALE’—isolated the female miscreant.⁷⁴² This was not a style peculiar to Dundee. In 1925 *The Scotsman* lamented that had the working classes invested the money they had spent on alcohol during the

elsewhere: Jonathon Mood, ‘“If We’re Petticoat Clothed, We’re Major Minded”: Working-Class Women and the Meat Boycott of 1872’, *Women’s History Review*, 18 (2009), p. 411.

⁷³⁸ Previous studies have found these terms: Paula Bartley, *Prostitution: Prevention and Reform in England 1860–1914* (London, 2000), p. 111, Hallie, *The Covent-Garden Ladies*, p. 13, Walker, *Crime, Gender and Social Order*, p. 87, Heather Shore, ‘Undiscovered Country’: Towards a History of the Criminal ‘Underworld’, *Crimes and Misdemeanours*, 1 (2007), p. 55.

⁷³⁹ *WN*, 5 April 1890, 13 March 1875, 19 March 1887, 26 September 1885.

⁷⁴⁰ See Appendix 4.8. For a discussion of caricatures: Gunn, *The Public Culture of the Victorian Middle Class*, p. 65.

⁷⁴¹ *WN*, 5 March 1887. This is probably the same violent Ann Lynch mentioned earlier in this chapter.

⁷⁴² *WN*, 4 January 1902.

war they would be much better off. It is the generic content of this article that makes the header ‘YOUNG WOMEN DRINKERS UNFORTUNATE WAR LEGACY’ appear strikingly out of place.⁷⁴³ In the same way, Dundee’s press often applied double standards in their representation of female crime.

A breach of the peace technically occurred whenever coarse and blasphemous language was used in public, but a micro-study of *The Courier*’s court reports, for 1885, reveal no records of male offenders charged with swearing, whereas accounts of female vulgarity were printed in quantity. Double standards are equally apparent in the coverage of theft. Bland headlines, such as ‘FRAUD AND FORGERY’, accompanied men in the dock, but a woman, charged with the same crime, received attention as ‘A LADY SWINDLER’.⁷⁴⁴ Predictably reports of fights also show bias. If the press reported the trials of men *at all* they simply provided the location of the incident and that it had drawn a crowd.⁷⁴⁵ When women fought, this background plus a detailed description of the defendants’ appearance was given. Scullian, readers discovered, was ‘rather tall and wiry and she appeared in court with a ‘large “mouse” under her right eye’. Her partner was a ‘rather short, well built, and ... [an] inoffensive-looking girl’.⁷⁴⁶

The popularity of crime news was well established by the start of our period. If the football results were scanned first, it was to the crime reports that readers turned

⁷⁴³ *S’mam*, 21 November 1925.

⁷⁴⁴ *WN*, 30 June 1900, 11 March 1893.

⁷⁴⁵ *WN*, 4 January 1902, 17 July 1880.

⁷⁴⁶ *WN*, 13 May 1893. A comparable male case describes men ‘pounding away at each other with their fists in the presence of a dense crowd’: *C*, 12 February 1885.

next.⁷⁴⁷ And it was probably thanks to the press that Dundee's most persistent female offenders became household names. 'MARY ANN SCORES HER CENTURY', 'A HOPELESS WRECK' and 'MARGARET GOW AGAIN' are typical of the headlines after serial female recidivists appeared at the police court.⁷⁴⁸ Female offenders were not unfamiliar in the dock, so the public's evident interest cannot be explained by the appearance of the new or unknown.⁷⁴⁹ As things stood, the press ought to have been more curious about male persistent offenders since they, according to the crime figures at least, were an altogether more unusual breed. The most likely explanation for the press attention is that drunk and disorderly women were a source of public curiosity and amusement due to the contrast they presented to the idealized female stereotype.⁷⁵⁰ What is more, by providing readers with the opportunity to express disapprobation the press was allowing the respectable to underscore their own righteousness.

The editor always sought, in the words of a contemporary, the 'spirit of the crowd' and in the next section we will use evidence from the local papers to determine how female drinking was perceived in Dundee.⁷⁵¹ Given the disproportion of women

⁷⁴⁷ For popularity of newspapers among the poor: Lucy Brown, *Victorian News and Newspapers* (Oxford, 1985), pp. 48-50. Croll believes that in some instances papers were bought simply for the coverage of local trials: 'Naming and Shaming', p. 5.

⁷⁴⁸ *C*, 3 September 1889, Lamb 304(8), 216(59), *C*, 13 September 1892.

⁷⁴⁹ Morrison, 'Ordering Disorderly Women', p. 181. Typical of Dundee was eight women convicted of drunken behaviour in one court sitting: *WN*, 6 March 1875.

⁷⁵⁰ A 'London Police Magistrate' appears to have found the female offenders inherently more interesting. He wrote of his 'indistinct recollection' of the male drunkards he tried. 'They seem less imaginative (dare I say it?) than the women. At any rate, they either have nothing to say, or nothing that strikes and fixes itself on the memory': Unknown, 'Drink and Drunkenness in London by a London Police Magistrate', p. 324.

⁷⁵¹ H Mahin, *Development and Significance of Newspaper Headlines* (USA, 1924), p. 140. King amongst others takes this view: 'Newspaper Reporting and Attitudes to Crime and Justice', also Foyster, 'Introduction: Newspaper Reporting of Crime and

drunkards in the recidivism records, the first question to ask is whether Stanley Cohen's Moral Panic theory is relevant to this study.

4.4 e) 'The Mother Drinks!': A Moral Panic Over Female Offending?

The concept of the 'moral panic' suggests that the press shapes the public's perception of the criminal. There are several elements to the sociologists' theory, but at its most basic it refers to the creation of 'folk devils' by the media, spreading fear and prejudice about a topic that is seen—or claimed to have—a moral component. The consequence of the press attention is that the topic becomes a matter of urgent public concern, encouraging both legislators and the criminal justice authorities to increase their response to the apparent threat. To use John Marriot's term, the press acts as a 'moral Baedaker'.⁷⁵² Although evidential weakness precludes historians from testing the concept of the moral panic in any systematic way, Cohen's idea is well known to crime historians. It has been applied to the reporting of the Whitechapel murders, to *The Pall Mall Gazette's* 'white slavery' articles, as well as to 'crime waves' engineered by local papers, but the London garrotting panics (of 1856 and 1862) probably provide the best-known historical support to this theory.⁷⁵³

Justice', p. 11, and John Tosh, *In Pursuit of History: Aims, Methods and New Directions in the Study of Modern History* (Essex, 2002), pp. 168, 92-3.

⁷⁵² The theory was developed by Stan Cohen in 1972 see his *Folk Devils and Moral Panics*, 3rd Edn, (London, 2002). For a sociological discussion: Nachman Ben-Yehuda, 'Moral Panics – 36 Years On', *British Journal of Criminology*, 49 (2009), p.1 and Kenneth Thompson, *Moral Panics* (London, 1998), p. 139. On its historical relevance: Shore, 'Undiscovered Country', pp. 47, 50, 52 and her 'Criminality and Englishness in the Aftermath: The Racecourse Wars of the 1920s', *Twentieth Century British History*, August 2011, online.

⁷⁵³ In the London garrotting panic relatively trivial offences were redefined as serious assaults due to an alarmist national press campaign increasing public concern about the imminent end of transportation: R Sindall, 'The London Garotting Panics of 1856 and 1862', *Social History*, 12 (1987), p. 351.

Those studying female crime have found the sociological concept valuable too.

Morrison believes that there was a moral panic about women drunks in the period of this research.⁷⁵⁴ Similarly, although Zedner does not refer to the theory by name, she applies the language of the sociologist when she observes that the female drunk was a recurring ‘folk devil’ in the Victorian press.⁷⁵⁵ She raises an important point here because sociologists maintain that a common catalyst for a moral panic is a perceived threat to ‘natural’ gender roles.⁷⁵⁶ The newspaper reports of female inebriety during the First World War certainly encapsulate some of the qualities of a moral panic. *The Scotsman*, for instance, devoted a great deal of attention to the ‘scandal’ of women getting drunk on the war bonus while their husbands were away fighting.⁷⁵⁷ Since historians of the period have described fears over female drunkenness as ‘hysterical’, it seems Cohen’s theory may be relevant to Dundee’s recidivism records.⁷⁵⁸

The possibility that a moral panic can account for the disproportion of women on the local inebriate register and in the recidivism statistics is rejected.⁷⁵⁹ The reports concerning drunken mothers most closely encapsulate the pattern sociologists have associated with a moral panic, but the evidence is insufficient to support the theory. In

⁷⁵⁴ Morrison, ‘Ordering Disorderly Women’, see especially her section ‘Women and alcohol: the contemporary moral panic’, pp. 2-7.

⁷⁵⁵ Zedner, *Women, Crime and Custody* pp. 2, 28, 42, 229.

⁷⁵⁶ Thompson, *Moral Panics*, p. 111.

⁷⁵⁷ *S’mán*, 1 April 1915, 10 November 1915, 1 January 1916, 15 February 1916, 7 December 1916. Also Tom Honeyman, ed, *No Licence! The New Campaign: The Handbook of the National Citizens’ Council Temperance (Scotland) Act* (Glasgow, no date, approximately 1921), p. 84.

⁷⁵⁸ On hysteria: Degroot, *Blighty*, p. 237, John Greenaway, *Drink and British Politics Since 1830: A Study in Policy Making* (Hampshire, 2003), pp. 93, 101-102, Deirdre Beddoe, *Discovering Women’s History: A Practical Manual* (London, 1983), p. 69.

⁷⁵⁹ This is the same conclusion reached by previous historians: W R Cornish and others, *Crime and Law in Nineteenth-Century Britain* (Dublin, 1978), p. 252.

1893 *The Weekly News* reported that ‘[o]ne of the saddest scenes on earth is a drunk woman staggering through the streets with an infant in her arms.’⁷⁶⁰ Clearly the paper, in common with its counterparts elsewhere, sought to highlight the incompatibility of drunkenness with the female maternal role and to condemn mothers who neglected their infants. Yet this does not amount to a moral panic. Saliently, there was no moral panic over drunken mothers ‘overlaying’ their infants either. As we saw in Chapter 3, the high rate of infant mortality was largely blamed on the mothers’ need to return to work soon after giving birth.⁷⁶¹ As for the illustration below (Image 4.1)—recording a scene witnessed by a local social explorer—while it berated women drunks, it was included in an article sympathetically highlighting the plight of the poor.

Having said that there was no press-generated moral panic about female inebriety with which to account for the disproportion of female recidivists in Dundee’s crime records, there is cause to be suspicious that policies of social control can account for the specificity of the city’s recidivism returns. Indeed, this is the line taken by Boritch in light of similar Canadian data.⁷⁶² What we must determine is whether passers-by found women drunks particularly vulgar, as public antipathy, we can imagine, would have encouraged a rigorous policing response.

⁷⁶⁰ *WN*, 6 May 1893.

⁷⁶¹ In 1898 Sheriff Campbell Smith did warn drunken mothers about ‘overlaying’ their infants (that is, smothering by lying on or suffocating them in bedclothes), but there was no moral panic in the press: Watson, *Dundee*, p. 128. Neither was there in south Wales in the period: Linda Beresford, ‘Baby Graves: Infant Mortality in Merthyr Tydfil 1865–1908’, (unpublished PhD thesis, Murdoch University Western Australia, 2006). Morrison, in contrast, finds that there was a moral panic over maternal inebriety in Britain in the period: ‘Ordering Disorderly Women’, pp. 130, 134.

⁷⁶² Boritch, *Fallen Women*, p. 136. Incidentally, she finds that there was a moral panic about the ‘White Slave Trade’; of innocent young women trapped in a life of prostitution: p. 106.

Image 4.2: A Drunken Mother



From: *DYB*, 1881, p. 139.

4.4 f) ‘A Drunken Woman is a Far Worse Sight Than a Drunken Man’

The cartoon in Image 4.2 (below) appeared in the light leader section of *The People’s Journal*. Because the items published here were selected especially to confirm the readers’ prejudice, the drawing is rich with significance. With their shawls, striped petticoats and bare arms, their identity as mill girls is undeniable. The accompanying reference to the ‘deplorable scenes of drunkenness among women and girls’ would have us believe that the Overgate was a female-only zone when it came to anti-social drunkenness. The fact that *The Journal* made no comparably condemnatory comment on male inebriety supports Jan Merchant’s finding that drunken behaviour, that was acceptable from Dundee’s Victorian working-class men, such as ‘loudness, coarseness and drunkenness’, was intolerable when performed by the city’s

women.⁷⁶³ And this is precisely what feminist double-deviancy theorists would lead us to expect of attitudes at the time (and today).⁷⁶⁴

A review of twentieth-century opinions towards female drinking provides a hint of the historical disposition of Dundonians towards the women drunkards captured in the cartoon. In the 1970s, over 90 per cent of the respondents surveyed in Highland Scotland agreed with the statement '[a] drunken woman is a far worse sight than a drunken man'.⁷⁶⁵ This, in fact, is an almost perfect echo of *The Advertiser's* 1901 report that the sight of a drunken man was 'bad enough, but a helpless, besotted woman or young girl [was] infinitely worse.'⁷⁶⁶ Sociological research provides a clue to Victorian and Edwardian double standards that would have encouraged different perceptions of drunken men and women. To paraphrase modern findings, the sight of a female drunk would have been perceived as abnormal, whereas there was probably nothing untoward about the sight of a drunken man.⁷⁶⁷ On this basis, Dundee's

⁷⁶³ Jan Merchant cited by Gordon, *Women and the Labour Movement*, p. 157. Similarly, Walker, *Juteopolis*, pp. 17, 40, and Ellie McDonald observes that in the face of its female-dominated workforce Dundonian 'society retreated behind ... fixed ideas of what constituted male and female behaviour: 'Dundee Women', in Bill Kay, ed, *The Dundee Year Book: An Anthology of Living in the City* (Edinburgh, 1995), p. 157.

⁷⁶⁴ Although there is no accompanying cartoon, Bellman's column in May 1926 is worth mentioning for its lack of condemnatory comment concerning the behaviour of a man, presumably a drunk. It was recounted that 'a well-primed man' had deposited an empty bottle of beer on the tram island and while the inspector tried to remove it '[a]ll the time the man ... stood grinning': *PJ*, 20 May 1926. Morrison, 'Ordering Disorderly Women', p. 17.

⁷⁶⁵ Macdonald, 'Whisky, Women and the Scottish Drink Problem' p. 129. A number of sociological studies have shown that both men and women regard female drinking more unfavourably than male drinking. They associate women's drinking with sexual promiscuity and a lack of femininity: Moira Plant, *Women and Alcohol Contemporary and Historical Perspectives* (London, 1997), p. x, Shirley Otto, 'Women, Alcohol and Social Control', in Bridget Hultcr and Gillian Williams, eds, *Controlling Women – The Normal and the Deviant* (London, 1981), p. 154.

⁷⁶⁶ *DYB*, 1901, p. 204.

⁷⁶⁷ Macdonald, 'Whisky, Women and the Scottish Drink Problem,' p. 133.

recidivism figures may betray greater forbearance of male drunkards than their female counterparts that in turn, influenced police policy. However, it is not only gender stereotypes that are found in Dundee's press.

Both Dundee's demographic imbalance and strong drink culture meant that it was not unusual to see a tipsy mill girl staggering down the street. When *The Advertiser* reported, in 1901, that a drunken woman was a 'far worse sight', than a drunken man, it added that this was a spectacle 'so common as to cause little comment'.⁷⁶⁸

Significantly, when in 1893 *The Courier* referred to the sight of 'hopeless, drivelling drunkards ... disgusting the general public by outrages of decency', it concluded that it was 'remarkable' that this 'nuisance and torture to ... society *was accepted*' (my italics).⁷⁶⁹ And more to the point, according to *The Advertiser*, in 1903, 'quite one-half of the population' and 'whole districts', lived in a 'condition of semi-barbarism', such that it was 'often difficult to adjudge the "balance of criminality."'⁷⁷⁰ Here the sources construct an image of a city where the strong drink culture had inured large sections of the community to the vision of a drunk and disorderly woman, confirming the findings of Chapter 2 that occasions of female social drunkenness were acceptable, notwithstanding the undoubted influence of Victorian social mores in the slums. All we can tentatively conclude at this stage is that there was a diversity of opinion over women's drinking in Dundee, but that the respectable sections of the population were probably, by default, more condemnatory of female drunkards than male.

⁷⁶⁸ *DYB*, 1901, p. 204.

⁷⁶⁹ *C*, 8 July 1893.

⁷⁷⁰ *DA*, 13 November 1903.

In order to be able to discuss the extent to which the gendered patterns in the recidivism records were caused by a discriminatory criminal justice system we need to know more about the one hundred or so women who made up the ‘small army’ of persistent recidivists. We need to know whether they could be distinguished from the other tenement women whose footsteps chimed on the cobblestones, and this is our next purpose.

Image 4.3: Drunken Women in the Overgate



From: *PJ*, 11 May 1907.⁷⁷¹

⁷⁷¹ I am grateful to the Local History Centre, Dundee Central Library for permission to reproduce this image.

4.5 The Prison and the Poorhouse: Characterizing the Habitual Offender

Mary Ann Stewart and Euphemia Duff or Quinn, who had nearly two hundred convictions between them, are described in the court reports as ‘mill workers’. They were also prostitutes. This information provides us with the backdrop to their lives, for as will be recalled from Chapter 3: the ‘poorest specimens of humanity I have ever seen’ was how a factory inspector described Dundee’s mill workers in 1904.⁷⁷² It is no surprise that mill girls were associated with the city’s sex trade given that most historians believe poverty led women to prostitution.⁷⁷³ Our task now is to demonstrate that the lives of Dundee’s most persistent recidivists were truly wretched and this will be achieved by focusing on Stewart and Quinn, and women like them.

Chapter 2 provided an overview of social deprivation in Dundee in the period. Through the study of the city’s crime records we see that the working class was diverse; the poor were not indistinguishable, as Eric Hobsbawm and local historian William Walker suggest, but that the ‘toffs’ were divided from the ‘roughs’ by poverty and culture. Indeed, Dundee’s streets could have been colour-coded along the lines of Booth’s London ‘poverty maps’.⁷⁷⁴ What is underlined here is that the women

⁷⁷² Mr J Wilson quoted in Lennox, p. xx.

⁷⁷³ For a recent discussion, Taylor, *Hooligans, Harlots and Hangmen*, p. 103, Fingard, *The Dark Side of Life*, p. 113.

⁷⁷⁴ Walker talks about the ‘homogeneity’ of the working-class experience in Dundee: *Juteopolis*, p. 1. E Hobsbawm also suggested that the working class should be conceived as a ‘singular rather than a plural noun’, cited by Steven Fielding. Fielding challenges this view by pointing out various markers of diversity: *Class and Ethnicity: Irish Catholics in England, 1880–1939* (Buckingham, 1993), p. 4. Similarly John Burnett argues that the Victorian working classes had no more homogeneity than their social superiors and are best thought of as a series of sub-classes: *A History of the Cost of Living* (Middlesex, 1969), p. 247. I share his view. Dundee’s mill girls earned at least 10/- a week less than weavers. Over the period the difference in wages between the skilled and unskilled increased. Another indicator of the diversity

persistently convicted of brawling and boozing belonged to the city's brutal underworld. They experienced homelessness, hunger and domestic violence and their lives were chaotic. The evidence, moreover, shows that Judith Fingard was right to advocate that her findings, concerning the ninety-two recidivists (male and female) in Canadian Halifax, in the years 1854–1884, are relevant to other nineteenth-century Western cities, for there are indeed close parallels to be drawn between Dundee's recidivist women and the female re-offenders discussed in previous work.⁷⁷⁵ We begin the analysis with a study of visual records.

We have the photographs of thirty-five female habitual drunkards taken by the police, contained in the 1905 inebriates' register. These are the images that were circulated to local publicans with the purpose of preventing those blacklisted from obtaining alcohol. As it turned out, within two years of its operation it was clear to city officials that the register had failed in its aim. This was not, they concluded, the fault of the

amongst the poor is that, notwithstanding the low earnings of single women, those without dependents who lived either alone or with a friend could, by pooling resources, achieve a reasonable standard of living whilst other families slept on sawdust and knew only insecurity. Charles Booth is mentioned because in 1886 he began to survey the social conditions of every street in London leading to his multi-volume *Life and Labour of the People in London*. On the issue of working-class diversity Kathleen Woodward, in 1928, referred to the 'ordinary poverty' of London's working-class streets and the 'real' poverty of the East End and Whitechapel districts: *Kipping Street* (London, 1928) pp. vii, 3. Englander similarly refers to poverty and 'ragged' poverty: 'Policing the Ghetto', similarly Juliet Nicolson, *The Perfect Summer Dancing into the Shadow, England in 1911* (London, 2006), p. 178.

⁷⁷⁵ Fingard, 'Jailbirds in Mid-Victorian Halifax', p. 64 and *The Dark Side of Life*, p. 191. A parallel is seen in Boston in 1901: Koren, 'Some Statistics of Recidivism among Misdemeanants in Boston', p. 1. For recent studies that mirror Fingard's findings (and mine) see Taylor, *Hooligans, Harlots and Hangmen*, pp. 85, 103, Crone, 'Reappraising Victorian Literacy through Prison Records', p. 19, Curtin, 'Female Prisoners in Galway', p. 180.

publicans and its lack of success is a reminder of the lengths to which recidivists would go to obtain drink.⁷⁷⁶

4.5 a) Dundee's 'Brawling Sisters'

The photographs of the women most frequently charged with drunk and disorderly behaviour (Images 4.3), particularly when cross-referenced with their court papers, provide tantalising insights into the brutality of the lives of Dundee's recidivists.⁷⁷⁷ By recording the women's scars, the images suggest that they had a propensity for getting into fights. The distinguishing features of thirty-nine-year-old Ann McDaniel, of 'no fixed abode', were logged as ' [c]ut scar on right eye-brow, nose broken, mark left side of mouth'.⁷⁷⁸ With the help of a magnifying lens it is also possible to make out the swelling associated with 'cauliflower' or 'wrestler's ear'; the acquired deformity of the cartilage of the ear due to a physical blow. Other photographs reveal noses that had been broken, black eyes, fat lips, and the police notes state that both Mary Carr and Alice Rooney had split ears. Today that injury is usually associated with either a particularly undisciplined game of rugby or an accident involving an earring. According to Dundee's court reports, ears were commonly bitten in fights.⁷⁷⁹ It is not wrong to cast Carr and Rooney as violent characters since they each had a

⁷⁷⁶ *PoR*, 1908 p. 13.

⁷⁷⁷ The cross-references were only made when it was clear that the records referred to the same woman.

⁷⁷⁸ *DIR*, no' 33, the police notes state these as distinguishing marks. Are there signs of syphilis? When I showed the images to a postgraduate forensics student she did not think so.

⁷⁷⁹ *WN*, 5 March 1887. Similarly, Macilwee observes that in Liverpool when women fought, in the absence of weapons, they resorted to using their teeth: *The Liverpool Underworld*, p. 132.

number of facial scars; what is more, our perception of Rooney is reinforced by the account of her assault on a fellow poorhouse inmate. She was seen:

spitting in her face, trying to push her fingers into her eyes, striking her several times on the face with a pair of scissors, striking her on the head with her fist, and pulling her down upon the floor by the hair of the head; and further, with having on the following day assaulted ... [the] labour mistress in the house, by striking her several times with her hands on the face.⁷⁸⁰

Historians have observed that women admitted into the workhouse, suffering from the effects of drink deprivation could be violent, but there was more to it than this.⁷⁸¹ Carr, Rooney, Stewart and Quinn belonged to the section of the underclass commentators labelled the ‘social residuum’, the ‘submerged tenth’, or simply as the ‘Roughs.’⁷⁸² In short, they were portrayed as morally depraved outcasts: quite distinct from their law-abiding neighbours, notwithstanding that the latter were frequently drunk at the weekend too.⁷⁸³

Euphemia Duff or Quinn, prostitute-thief and disorderly drunk, displayed two black eyes when she made her thirtieth appearance at Dundee’s police court in 1886.⁷⁸⁴ We

⁷⁸⁰ *WN*, 22 March 1890. The local evidence, like records analysed elsewhere, reveal that female recidivists were often presented as ‘nasty and brutish’: Fingard, *The Dark Side of Life*, p. 35, similarly, Godfrey and Cox and Stephen Farrall, *Criminal Lives*, p. 59.

⁷⁸¹ Christopher Hibbert, *The Roots of Evil: A Social History of Crime and Punishment* (Middlesex, 1963), p. 258, Finnegan, *Poverty and Prostitution*, p. 147.

⁷⁸² For a contemporary account of the ‘rough’: see Robert Park, ‘The City’: Suggestions for the Investigation of Human Behaviour in the Human Environment’, *The American Journal of Sociology*, 5 (1915), 577-612. John Welshman, *Underclass: A History of the Excluded 1880–2000* (London, 2006), pp. xii, 4, John Macnicol, ‘In Pursuit of the Underclass’, *Journal of Social Policy*, 16 (1987), pp. 296-297, D’Cruze, *Crimes of Outrage*, p. 61. In the 1940s the term used was ‘the problem family’, now it seems the fashionable phrase is the ‘socially-excluded/ socially-disadvantaged’.

⁷⁸³ Jerald J Bellomo, ‘Upper Canadian Attitudes Towards Crime and Punishment (1832–1851)’, *Ontario History*, 64 (1972), pp. 12-13.

⁷⁸⁴ *WN*, 26 June 1886.

can be certain she was surrounded by a culture of violence that made a mockery of respectable values. She was routinely brought to the bar for brawling: with her tenement neighbours, with women in the street (probably prostitutes) and she was convicted of assaulting her daughter-in-law as well as her own 'deaf and dumb child'.⁷⁸⁵ What is more, her husband was convicted for beating her. According to the court report he had 'dragged her to the ground and kicked her unconscious', provoked, it seems, by jealousy at her going with clients.⁷⁸⁶

Quinn would have known, at least by sight, the other persistent offender whose story is representative of the women dominating Dundee's recidivism records. In February 1890 she appeared on the same court roll as Mary Ann Stewart when both women were charged with riotous conduct in separate incidents.⁷⁸⁷ Mary Ann Stewart was the city's second most habitual recidivist, after Margaret Gow. Like Quinn, she was a drunkard and she was promiscuous. And like Quinn, she was assaulted by the man she lived with, she fought with her neighbours and with women in the street (again most likely other prostitutes), and in particular she fought with her sister: Jane Stewart. The police regularly found the pair rolling about the floor, fighting and swearing.⁷⁸⁸

⁷⁸⁵ It was not only recidivist offenders who appeared in this state however. As in Liverpool it was commonplace to see Dundonian women in court with blackened eyes (often as a result of domestic violence): Macilwee, *The Liverpool Underworld*, p. 131. On prostitutes fighting over territory see: Durston, *Victims and Viragos*, p. 204.

⁷⁸⁶ Quinn's court appearances *C*, 17 March 1875, 21 November 1879, 19 June 1884, 5 July 1888. Her husband was in court: *C*, 8 June 1883, 14 July 1888.

⁷⁸⁷ *C*, 27 February 1890.

⁷⁸⁸ Mary Anne's court appearances *C*, 23 May 1877, 31 August 1877, 5 September 1879 (fighting with her sister), also 27 March 1879, 1 July 1881, 29 March 1884, 17 March 1891.

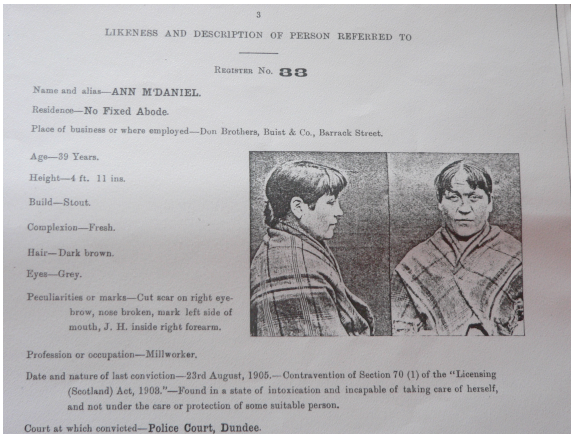
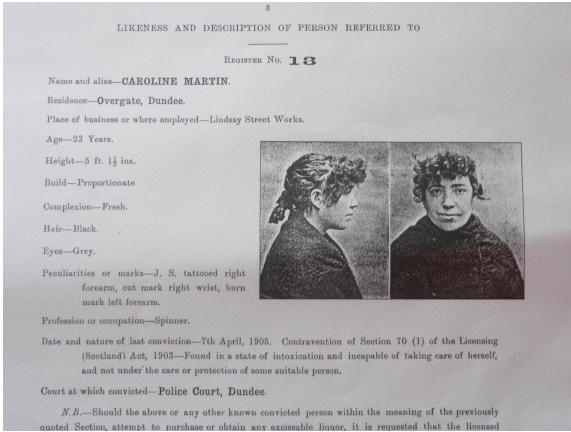
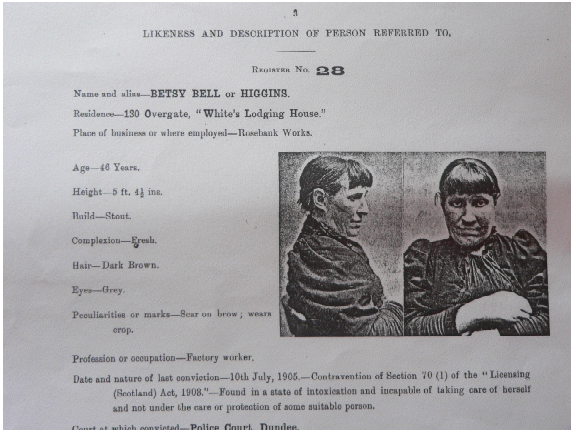
These families were clearly cut off from social pressures that would have encouraged more respectable, law-abiding behaviour. There is nothing novel about the idea that defective socialization processes could distinguish offenders from other women of the poor – this was the opinion, after all, of Victorian commentators.⁷⁸⁹ Similarly, Jerry White, in his social history of London's underclasses at the end of Victoria's reign, finds that a century of progress had largely passed the likes of the Stewarts and the Quinns by.⁷⁹⁰

Our case studies knew life at its most brutal. Hence it is no surprise that they lived in Dundee's most deprived and overcrowded slums, notorious for shebeening, violence and crime – districts described in language redolent of London rookeries. By investigating where the recidivist women lived the following section reveals more proof that they belonged to the most impoverished, outcast section of society.

⁷⁸⁹ Godfrey et al, *Criminal Lives*, p. 4, Zedner, 'Women, Crime, and Penal Responses', p. 335. Today criminologists distinguish the underclass by defective familiar or individual socialization processes: Clement Cottingham, ed, *Race, Poverty, and the Urban Underclass* (Lexington, 1982), p. 3.

⁷⁹⁰ White, *London in the Nineteenth Century*, p. 301. Similarly, Cox, *Gender, Justice and Welfare*, p. 151.

Image 4.4: Dundee's Female Inebriates in 1904–1905




3

LIKENESS AND DESCRIPTION OF PERSON REFERRED TO

REGISTER No. **10**

Name and alias—**MARGARET CUNNINGHAM or M'MANUS.**
 Residence—Rock's Lodging House, 97 Overgate, Dundee.
 Place of business or where employed—Pedlar.
 Age—46 Years.
 Height—5 ft. 2 ins.
 Build—Proportionate.
 Complexion—Fresh.
 Hair—Dark Brown mixed with Grey.
 Eyes—Brown.
 Peculiarities or marks—Wants teeth in lower jaw, with the exception of two on left side; nose broken.
 Profession or occupation—Pedlar.
 Date and nature of last conviction—1st April, 1905. Contravention of Section 70 (1) of the Licensing (Scotland) Act, 1903—found in a state of intoxication and incapable of taking care of herself, and not under the care or protection of some suitable person.
 Court at which convicted—Police Court, Dundee.




3

LIKENESS AND DESCRIPTION OF PERSON REFERRED TO

REGISTER No. **11**

Name and alias—**MARY CARR.**
 Residence—23 Blackness Road, Dundee.
 Place of business or where employed—Unemployed.
 Age—29 Years.
 Height—4 ft. 11½ ins.
 Build—Medium.
 Complexion—Fresh.
 Hair—Black.
 Eyes—Grey.
 Peculiarities or marks—Brown birth mark side of right eye, cut scar on right cheekbone, several cuts on lower lip, lobe of right ear split, cut scar right upper arm.
 Profession or occupation—Millworker.
 Date and nature of last conviction—3rd April, 1905. Contravention of Section 70 (1) of the Licensing (Scotland) Act, 1903—Behaving while drunk in a riotous or disorderly manner.
 Court at which convicted—Police Court, Dundee.




N.B.—Should the above or any other known convicted person within the meaning of the previously

3

LIKENESS AND DESCRIPTION OF PERSON REFERRED TO

REGISTER No. **23**

Name and alias—**MARY ANN COLLISTON or M'MAHON.**
 Residence—10 Rosebank Road.
 Place of business or where employed—"Rose's Home," Commercial Street, Dundee.
 Age—36 Years.
 Height—5 feet.
 Build—Proportionate.
 Complexion—Fresh.
 Hair—Brown mixed with Grey.
 Eyes—Blue.
 Profession or occupation—Charwoman.
 Date and nature of last conviction—25th June, 1905.—Contravention of Section 70 (1) of the "Licensing (Scotland) Act, 1903."—Found in a state of intoxication and incapable of taking care of herself and not under the care or protection of some suitable person.
 Court at which convicted—Police Court, Dundee.



N.B.—Should the above or any other known convicted person within the meaning of the previously

From: A sample from Dundee's register of blacklisted inebriates (*DIR*) compiled in response to the Licensing (Scotland) Act 1903.

4.5 b) 'The Awfullest Place That Could Possibly Be': Recidivist Living Conditions

In 1886, when Euphemia Duff appeared at the bar with two black eyes, she was living in a Baltic Street tenement. On that occasion, according to the police witness, 'the stair was blocked up, and every one of the tenants were intoxicated and fighting'. It was, he said, 'the awfullest place that could possibly be'.⁷⁹¹ Quinn was probably inured to such scenes as she knew the city's worst slums. The 1871 census records her in Fish Street – an area sarcastically known as the 'Holy Land', a nickname it shared with London's infamous St Giles rookery.⁷⁹² Nestled between the harbour and High Street, Fish Street's 'dark and dirty slums' had been notorious for drink, violence and high mortality since the first half of the nineteenth century.⁷⁹³ In the period with which we are concerned, its decaying and damp flats were home to a disproportionate number of Dundee's habitual offenders. James Scrymgeour, a local philanthropist and social explorer, often visited searching for the families of prisoners.⁷⁹⁴ He said that all the city's prostitutes lived there.⁷⁹⁵ Whether that is true cannot be ascertained, but confirming his reference to the 'criminal character' of its inhabitants, Fish Street turns up continually in the court papers. From these sources we learn not only that Euphemia Duff was familiar with this neighbourhood by the docks but that Margaret Gow was a resident too.⁷⁹⁶

⁷⁹¹ *WN*, 26 June 1886.

⁷⁹² Ben Wilson, *Decency and Disorder 1789–1837* (London, 2007), pp. 264–5.

⁷⁹³ Fish Street's reputation was established by 1850: *DA*, 31 March 1843.

⁷⁹⁴ Lamb 222(8K), 'The Demolition of the 'Holy Land' by an Explorer of the Lower Strata James Scrymgeour': *PJ*, 28 May 1881.

⁷⁹⁵ Unknown, *The Municipal History of the Royal Burgh of Dundee* (Dundee, 1878), p. 2. Other cities similarly had streets strongly associated with brothels; Blandford Street in Liverpool for example: Macilwee, *The Liverpool Underworld*, p. 270.

⁷⁹⁶ Lamb 307(8).

The 1872 Improvement Act sealed Fish Street's fate. After its demolition recidivists are found living in Dundee's most wretched slums; often sleeping in open hallways and on tenement stairs.⁷⁹⁷ We know from Chapter 2 that slum clearance schemes simply uprooted the poorest communities and compounded the problems of overcrowding elsewhere in the city. The difficulty of finding accommodation is probably why Jane Ritchie, habitual drunkard and thief, told the procurator fiscal that she lived in lodgings 'wherever she could find them'.⁷⁹⁸ Due to statements like this we can see that Fingard's portrayal of the habitual offenders in Canadian Halifax as '[d]own-and-out, skid-row types', is a description that possibly applies equally to Dundee's female recidivists.⁷⁹⁹ Many local persistent offenders are listed periodically in the records as being 'of no fixed abode', a term that implies a precarious, hand-to-mouth manner of living whenever it appears.⁸⁰⁰ Probing the evidence a little deeper, we find two distinctive subgroups under the 'no fixed abode' umbrella. Firstly, there are the repeat offenders who, like Gow, Duff and Stewart, moved regularly around Dundee's notorious slums. Secondly, there are peripatetic recidivists who gathered convictions throughout Scotland and indeed further a field; many of whom sold sex, or pretended to.⁸⁰¹ Josephine Bertie made four court appearances in Dundee, and then

⁷⁹⁷ This reiterates previous findings: Fingard, *The Dark Side of Life*, p. 20, Howell, *Geographies of Regulation*, p.89.

⁷⁹⁸ JC26/1868/64.

⁷⁹⁹ Fingard, *The Dark Side of Life*, p. 191.

⁸⁰⁰ C, 16 September 1890, female habitual drunkard prisoners in Galway Gaol 1878–1892 are recorded as being of 'no fixed abode': Curtin, 'Female Prisoners in Galway', p. 180. For a discussion of the term: Hobson, *Problems of Poverty: An Inquiry into the Industrial Condition of the Poor*, p.13. It is noted though that tenement families frequently changed address and that they often moved at night to avoid the debt collector: Nicola Morris, 'Dublin's Unfair City', *Who Do You Think You Are?*, 27 (2009), p. 20. On the proclivity of the poor to move also see: Walsh, *Not Like This*, p. 8, and William Woodruff, *The Road to Nab End: An Extraordinary Northern Childhood* (London, 2002).

⁸⁰¹ A sample of these include JC26/1872/20, JC26/1872/19, JC26/1872/72, JC26/1882/10.

moved to Glasgow where she was taken into an institution for ‘fallen women’. She soon returned to Dundee and within three months was at the police court a further six times for disorderly behaviour.⁸⁰² Fifty-eight-year-old Margaret McMillan or McDonald is typical of the non-prostitute-thieves ‘of no fixed abode’: she had been thieving for over twenty years (for which she blamed her ‘weakness’ for drink) with convictions in Forfar, Arbroath, Linlithgow, Stirling, Perth, Inverness, Nairn, Elgin, Leven and Cupar, plus several from Dundee.⁸⁰³ As prison societies across Britain funded female ex-offenders to travel to the city, presumably to find work in jute, this probably explains why women newly released from Fulham Prison and Liverpool are present in the crime archives.⁸⁰⁴

Impoverished strangers, as well as local women who lived hand-to-mouth, sought accommodation in Dundee’s lodging houses.⁸⁰⁵ We know this because a disproportionate number of those on the 1905 inebriate blacklist are recorded staying in Overgate doss-houses. And the details of this mode of existence provide clues of their underclass status. The ‘very focus of fever and the nursery of cholera’ was how *Fraser’s Magazine* described lodging houses in 1866. The same sexes, it reported, were huddled together in ‘rooms swarming with vermin’ that remained uncleaned

⁸⁰² C, 16 September 1890.

⁸⁰³ WN, 13 May 1893.

⁸⁰⁴ 56th PiSR 1894–5 p. 1167, PJ, 20 August 1881. Macilwee considers that the problem of recidivism was aggravated by the ease with which criminals could use the railways to move around the country: *The Liverpool Underworld*, p. 42.

⁸⁰⁵ No evidence has been found directly linking lodging houses with brothels, but, reading between the lines of the press, there was a strong association between the two in Dundee.

from one year to the next.⁸⁰⁶ Despite the introduction of legislation to improve standards, Edwardian commentators continued to refer to them as the ‘reservoirs of the lowest class.’⁸⁰⁷ The most persistent recidivists, however, were unable to afford even a filthy lodging-house bed. Incontrovertible proof of their impoverished status is provided by the fact that they were forced to seek the shelter of the poorhouse – an option that for many amongst the poor was considered worse than death.⁸⁰⁸

Habitual offenders and notably prostitutes were commonly known in Scotland’s criminal justice circles as the ‘outs and ins’, on account of their lives spent between the poorhouse and the prison.⁸⁰⁹ The Dundonian records provide plenty of material to justify the term. The woman convicted fourteen times, during 1885, *The Advertiser* surmised ‘must have spent the greater part of the twelve months in prison’. Indeed, Sheriff Ogilvy declared that ‘in many cases’ habitual offenders spent ‘half their lives

⁸⁰⁶ E Royston Pike, *The Working Classes in the Victorian Age Debates on the Issue from Nineteenth Century Critical Journals, Volume III: Urban Conditions 1848–1868* (London, 1973), p. 146.

⁸⁰⁷ By the end of the nineteenth century the conditions of the skilled working classes had improved. The unskilled poor however, as a Glasgow commentator observed, remained ‘truly distressing and pathetic’, citing E Robertson from 1892, Goldsmith, ‘The Development of the City of Glasgow Police’, p. 210. Similarly, Jerry White, *Rothschild Buildings: Life in an East End Tenement Block 1887–1920* (London, 2003), p. 122, Barrett, *Crime and Punishment in England*, p. 187. There was a discussion of social conditions in Dundee in the period of this study in Chapter 2.

⁸⁰⁸ For a discussion of the poorhouse as an indicator of poverty: Phillips, ‘Poverty, Unemployment, and the Administration of the Criminal Law’, p. 140, Fingard, *The Dark Side of Life*, p. 10. Aversion to the poorhouse, as with the English workhouse, was both strong and deeply rooted. Working-class fear and loathing is described in Chinn, *Poverty Amidst Prosperity*, pp. 82–83 and Rolph, *London Particulars*, p. 50.

⁸⁰⁹ *PJ*, 27 May 1905. In England they were known as the ‘ins-and-outs’ and according to Peter Higginbotham ‘treated the workhouse like a free hotel’. He cites one forty-year-old man who had been in and out of the Popular Workhouse 593 times between 1884 and 1901: ‘Workhouse Admissions’, *Who Do You Think You Are?* (February 2012), pp. 63–65. It is not stated whether the man was in prison the rest of the time, however, elsewhere the association of women recidivists and the workhouse is directly made: Hunt, Mellor and Turner, ‘Wretched, Hatless and Miserably Clad’, p. 247, Curtin, ‘Female Prisoners in Galway’, p. 180.

in jail': Margaret Gow was one such.⁸¹⁰ In a criminal career lasting thirty-four years she was incarcerated for around twelve of them.⁸¹¹ The available evidence shows that Gow and recidivists like her could not afford to pay their court fines and consequently had no option but to serve their prison term.⁸¹² Comparable sources elsewhere possibly confirm that, unable to pay their court fines, offenders were trapped by poverty in prison's revolving door. In 1894, for example, the Sheriff-Substitute of Glasgow told a government enquiry that two-thirds of women charged with prostitution in that city went to jail for twenty-four hours rather than pay the small fine of 5s.⁸¹³ Similarly Charles Booth's survey documents from London at the end of the nineteenth century show that a very large proportion of prostitutes were in prison on default of fine payment.⁸¹⁴ And Lancashire recidivist Nancy Dickybird, unable to pay her fines, served 173 terms of imprisonment nearly all alcohol-related offences.⁸¹⁵

Dr Miller, the medical officer of Dundee Prison, outlined the typical recidivist's lifestyle. He observed that when recidivist women like Margaret Gow were not in the hands of the police they were 'mostly in the poorhouse'.⁸¹⁶ On their release from prison—destitute and without support—they had few alternatives but to return to the poorhouse. That pattern is apparent from Ann Curran or McIvor's criminal record: on her 94th court appearance she told the court that she begged 'when she was hungry, after coming out of prison [and that as] [s]he was hardly ever out of prison ... it was

⁸¹⁰ *DYB*, 1885, p. 46, *C*, 1 May 1866. Similarly in Canadian Halifax there were women (and men) recidivists who spent half their lives in the prison: Fingard, *The Dark Side of Life*, p. 193.

⁸¹¹ Lamb 216(59). Gow cannot be traced here because, not unusually, only fragmentary poorhouse records survive.

⁸¹² *WN*, 19 March 1887, Lamb (216 (59)).

⁸¹³ *RHO*, 2833A.

⁸¹⁴ Laite, 'Prostitution in London, 1885-1930', p. 47.

⁸¹⁵ Jones, *Lancashire Lasses*, p. 70.

⁸¹⁶ *RHO*, 13,408.

very hard times with her'.⁸¹⁷ Of her London counterparts High Court Judge Parry observed, in 1914, that when habitual drunkards were released (or escaped) for the day they made like 'homing bird[s] for the alehouse'.⁸¹⁸ Likewise, by begging or stealing the money for a drinking bout, and without the resources to pay the consequential police court fine, Dundee's jailbirds continued to cycle between the prison and the poorhouse. It was a lifestyle that, as we shall see in the next chapter, many criminal justice practitioners sought to break.

'[D]estitute and outcast from their friends, broken down in health and self-respect and utterly degraded', was how *The British Medical Journal* described female drunkards in 1895, and this is another snapshot reinforced by the Dundonian evidence. On her 145th court appearance Margaret Gow was in a pitiful state. On her 154th—a mere six months later—*The Advertiser* reported that when asked to plead 'as usual, [she] recited a long story which ... no one could understand'. And in 1887 *The Weekly News* portrayed those who had amassed scores of convictions, but had not acquired Gow's notoriety, as 'slovenly and haggard ... in person and dress'. In the new century they were, according to *The People's Journal* '[p]hantom-like ... drink-sodden miserable creatures'.⁸¹⁹

Taking the local evidence at face value it would be fair to assume that the 'outs and ins'—especially women like Gow, who had been in prison over one hundred times—were unfit for work, since the law of Scotland provided that only the non-able bodied were entitled to parochial relief. In theory, the able-bodied were to find work or starve

⁸¹⁷ C, 3 September 1889.

⁸¹⁸ Edward Abbott Parry, *The Law and the Poor* (London, 1914, reprinted 1980) pp. 271, 279.

⁸¹⁹ Unknown, 'Reclamation of Women Drunkards', p. 726, *WN*, 1 January 1887, *DA*, 11 January 1866, 12 June 1866, *PJ*, 27 May 1905.

and this difference, contemporaries said, between the poorhouse and workhouse, made the effect of destitution worse in Scotland than in England.⁸²⁰ Dundee's Dr Lennox doubted that the law was always strictly applied, but whatever the reality it does not detract from the evidence that the city's most intractable offenders were a destitute underclass, a finding that Dr Lennox himself highlighted. In so doing he shared an opinion common not only with the social scientists of his day but among recent social historians specializing in the late Victorian and Edwardian period.⁸²¹

4.6 Conclusion

A key finding in this study is that the habitual offenders captured in Dundee's crime archives, were prostitutes and the drunk and disorderly. This chapter has sought to put flesh on the bones of the police statistics and to provide the background for the work to come. The qualitative evidence concerning the recidivist offender is often vague. This seems partly to reflect the national controversy over the definition of habitual crime in the period and partly to reflect the local authorities' concern to explain to the city's ratepayers that repeat offenders were distorting the published crime reports and giving the population a bad name – to this end they did not need to unpick the diversity within the recidivist community. But, on the basis of the chief constables'

⁸²⁰ HMSO, *Select Committee on Distress from Want Together with the Proceedings of the Committee and Minutes of Evidence, Reports I–III* (London, 1895), p. 33. It is too simplistic to say that there was no outdoor relief for the able-bodied; there was discretion in the Scottish system to allow for circumstances of 'exceptional distress': Hugh Ross, *Charity Organisation Conference: The Able-Bodied Poor in Scotland, with Special Reference to Methods of Relief*, (London, 1895), p. 3.

⁸²¹ Lennox, pp. 331, 367, also see Phillips, 'Poverty, Unemployment, and the Administration of the Criminal Law', p. 140, Macnicol, 'In Pursuit of the Underclass', pp. 296–7. For some scholars the notion of a separate underclass provokes debate, for a summary: Shore, 'Criminality, Deviance and the Underworld', pp. 124–6.

tabulated statements of crime, it is reasonable to accept *The Courier*'s assessment that there were around one hundred women before Dundee's courts each year possessing over twenty convictions each.

What is most striking about this 'small army' is that they dominate the police records not simply because they repeatedly exercised the courts, but because they had few male counterparts. Indeed, when it came to habitual offending women were more hardened criminals than men; according to the crime statistics those with over sixty convictions were mostly female. This chapter has shown it was a similar story throughout Britain and North America and hence the value of taking a comparative perspective. But we have prioritized sociological explanations for the dominant position of women recidivists in Dundee.

Why were Dundee's most persistent offenders women when it was men who were most often convicted of crime? This is the question with which the remainder of the dissertation is concerned, and we have already developed a partial answer. In Section 4.4 we saw that an interdisciplinary approach should be pursued since the social scientists' labelling and double deviance theories provide a useful lens through which to understand the crime archives. There is ample evidence that Dundee's historical records bear the imprint of policing policies and that negative stereotypes were applied to female recidivists locally. As previous studies have shown, it is significant that contemporary criminologists (referred to here as members of the medico-psychological community and prison scientists) considered female offenders to be uncivilized, unnatural and more depraved than their male counterparts and that, for them, prostitutes were strongly associated with crime.

Given that scholars argue that sexist criminological theories impacted on the operation of the criminal law in Britain, in the next chapter we will ask if social control, based on assumptions of appropriate female behaviour and inherent female ‘inferiority’, was the reason for women’s dominance of Dundee’s recidivism records. It is because the following chapter will look for evidence of overt discrimination against female recidivists that it has been essential to pull together a picture of their social character. What we have found fits well with the previous studies. They belonged to the insecure and marginalised underclass whose chaotic lives in ‘rough’, densely populated neighbourhoods were marked by extreme poverty, violence and intoxication. Joel Best observes that geographical mobility was a feature of nearly every prostitute’s career and so it is striking that the local records show that the most persistent offenders belonged to a community on the move.⁸²² The recidivists, however, did not only move between Dundee and other cities, they moved between the most wretched doss-houses and the dreaded poorhouse; and they moved between the poorhouse and the prison. Like their Canadian counterparts, it was common for Dundee’s most persistent re-offenders to spend several years behind bars in the course of their criminal career.

⁸²² Joel Best, ‘Careers in Brothel Prostitution: St Paul, 1865–1883’, *Journal of Interdisciplinary History*, 12 (1982), p. 614.

Chapter 5

Women Recidivists and Criminal Justice in Dundee c. 1865–1925

5.0 Introduction

My name is Susan Dun ... [o]n Friday night last about twelve o'clock, I met a sailor in Fish Market Dundee. He spoke to me, and gave me a bag containing close upon two pounds, to stop with him for two or three days. I went down through the Royal Arch with him, and seeing a policeman, he told me to walk on, till he would go to the ship. I stood at the Royal Arch till the police came up. When he came up I was stooping to slacken my garter, having a sore knee. I had no pocket and laid the money at my feet, where the policeman got it. I wish also to add that when I was accosted by the sailor Kate Fairly was standing near ...⁸²³

Knowing the reputation of Dundee's harbour, it seems both Susan Dun and Kate Fairly were soliciting sailors around the Royal Arch. Dun had several previous convictions for theft, and she could have been trying to hide stolen money in her garter but had dropped it and in this way it was found at her feet. What is highlighted by the extract—taken from her testimony to the procurator fiscal—is that both she and her client were keen to avoid attracting the attention of the police, presumably because the Dundonian Constabulary had a reputation for interfering with the activities of streetwalkers at the shore. The constable is not named in the court record, but he was undoubtedly a crucial figure in determining whether Dun gained another conviction; since it was up to him whether she was brought before the magistrate and it is most likely that he would appear as the witness against her.

The constable's appearance at the Royal Arch raises many questions: did he know Dun's reputation as a habitual thief and is that why he approached her? Did the police approach all women loitering at the harbour, or only those whose suspicious

⁸²³ JC26/1870/60

behaviour gained their interest? And to what extent was the police response influenced by the attitudes of the city's magistrates (or bailies as they were known)? The constable will have made a priority of bringing Dun and Fairly to the court if he was assured of a successful prosecution.⁸²⁴ If, on the other hand, Dundee's magistrates were inclined to dismiss charges against prostitutes the constable will have been more likely to turn a blind eye to their presence at the docks. We are prompted, therefore, to consider the type of sanction that Dun and Fairly were likely to receive.

Victorian and Edwardian judges had several sentencing options when faced with the petty offender. As was explained in Chapter 2, at Dundee's Police and Sheriff Court fines were imposed, with the alternative of a period of imprisonment: ranging from a few days to a few months. It seems that if a judge wanted to ensure that the defendant went to prison he would impose a fine that he knew she could not afford to pay.⁸²⁵

According to British legal theory, when sanctioning Dun and Fairly, the magistrates should have been impartial and unaffected by personal attitudes and experiences, except those informed by common sense.⁸²⁶ Nevertheless, since at least the 1920s, sociologists have been aware of prejudice and discrimination in judicial decision-

⁸²⁴ That is, the behaviour that the magistrate defined and categorized as deviant would be criminalized. On this see Donovan and Lawrence, 'Road Traffic Offending', p. 121.

⁸²⁵ See Fingard, *The Dark Side of Life*, p. 33, Lee, 'Regulating Prostitution in Nineteenth-Century Kent', pp. 150, 152. On fines imposed in Dundee see Appendix 5.1.

⁸²⁶ Logan, 'Professionalism and the Impact of England's First Women Justices', p. 841.

making.⁸²⁷ Detailed work by feminist criminologists has shown that the patriarchal nature of the law and legal apparatus has meant that, for generations, the women who violate the discourses of femininity have been punished unfairly and, in Chapter 4, we saw the relevance of this research to the investigation of Victorian and Edwardian crime.⁸²⁸

The feminist canon has led us to expect that Dun and Fairly suffered discriminatory treatment and this is the most obvious explanation for the predominant position of women in Dundee's recidivism figures. This chapter will consider to what extent the city's gendered recidivism records (the police statistics concerning repeated convictions and the inebriates' register) can be linked to a discriminatory criminal justice system, and, in the process, we will assess the impact of the misogynist writings associated with prison science on the courts and constabulary. As in previous chapters, the local evidence is interpreted in light of British and North American historical and social-scientific scholarship on this period, and other eras relevant to the research.

We shall begin our investigation by examining whether women recidivists suffered discriminatory policing, and the second half of the chapter will analyse the magistrates' sanctioning outcomes. The detailed findings concerning the impact of the medico-psychology community on the recidivists' experience are to be found in

⁸²⁷ See Raymond Paternoster and Leeann Iovanni, 'The Labelling Perspective and Delinquency: An Elaboration of the Theory and an Assessment of the Evidence', *Justice Quarterly*, 6 (1989), p. 367, Kruttschnitt, 'Social Status and Sentences of Female Offenders', p. 247, Conley, *The Unwritten Law*, p. vii.

⁸²⁸ For example Lizzie Seal, *Women, Murder and Femininity: Gender Representations of Women Who Kill* (Hampshire, 2010), p. 7, McMillan, 'Gender, Crime and Criminal Justice in Scotland', p.106. An overview of the literature was provided in Chapter 4.

Chapter 6. As the next section will explain, the task of determining the extent to which Dundee's criminal justice system discriminated against female habitual offenders is fraught with difficulties. As well as the limitations caused by the unknown dark figure, the two sets of evidence on which this chapter relies—the trial reports and the police statistics—present the historian with a number of other challenges.

5.0 a) Explaining the Methodology

The police and sheriff court reports, selected by journalists and edited for publication in the local press, which, as we know, become more scattered from the turn of the century, are the main source of Dundee's petty-crime trial transcripts. As the Canadian historian Joan Sangster reminds us, these are highly mediated sources, providing contradictory and incomplete narratives.⁸²⁹ And because Dundee's editors were concerned with the unusual and the interesting, but were all the while wary of offending their readers' sensitivities, this makes researching the experience of prostitute-recidivists and habitual drunkards—those we have established as the dominant section of female offenders—particularly difficult. The evidence on prostitutes is both partial and hidden in obfuscatory language. The evidence on habitual drunkards is deficient because their court appearances were often deemed too tedious to cover. Journalists frequently amalgamated the trials of casual and recidivist drunkards and skipped details about the latter altogether. In 1865, for example, *The*

⁸²⁹ Joan Sangster, 'Introduction to Regulating Girls and Women', in Amanda Glasbeek, ed, *Moral Regulation and Governance in Canada History, Context, and Critical Issues* (Toronto, 2006), p. 34.

Advertiser merely communicated that Sarah Linn or Hughes had been tried, and that she, along with other drunk and disorderlies, received ‘the usual penalties’.⁸³⁰

Clearly evidence has been lost but this is just one aspect of the difficulty in researching trials. Another problem is that the edited court reports are just not detailed enough to allow us to determine whether the police applied the same standards to men and women when bringing a charge.⁸³¹

Nevertheless, as previous studies have shown, court records are essential in recreating the experience of defendants.⁸³² Where possible our own investigation refers to the trials of male offenders—as comparators of female treatment—and, at several points, looks for patterns in the authorities’ response to Margaret Gow by comparing her treatment with that of Jane Cakebread, the multiple jailbird, with 290 convictions, tried by London’s criminal justice authorities.⁸³³

To discover whether there was a culture of discrimination at Dundee’s bar, or merely a few rogue magistrates unfairly punishing women, relevant trial reports (mostly from the police court), sampled from across the period, are identified and then considered in light of the typical court response. We examine the sentences awarded when like-for-like acts, perpetrated by male and female recidivists, with approximately the same

⁸³⁰ *DA*, 18 November 1865. Similarly, *The Weekly News* declared that ‘there were eleven cases before the Court this morning, none of which possessed any special interest’: *WN*, 15 September 1888.

⁸³¹ Taylor points out that male and female crime were not homogenous categories and equivalence is impossible to establish: *Hooligans, Harlots and Hangmen*, p. 118.

⁸³² Camilla Townsend, ‘I am the Woman for Spirit’: A Working Woman’s Gender Transgression in Victorian London’, *Victorian Studies*, 36 (1993), p. 294. For more of this see the literature review in Chapter 1.

⁸³³ For Cakebread’s criminal record see Morrison, ‘Ordering Disorderly Women: Female Drunkenness in England’, p. 237, and Zedner, *Women, Crime and Custody*, pp. 229-231.

number of previous convictions, were sanctioned in the same court sitting, by the same official. And where examples are lacking, we examine the experience of commensurate male and female recidivists tried within a couple of months of each other. The ability to contextualize sanctions is afforded by a very wide reading of the trial reports. And by combining insights from the magistrates' language and tone in their comments to defendants, with the analysis of sentences, we can determine the place of traditional sex-role expectations in the culture of Dundee's courts. The cases where offenders were obnoxious, and where the bailies justified their sanctioning are the most valuable in allowing us to gain a glimpse of the magistracy's attitudes towards Dundee's female recidivists in the past.⁸³⁴

As for the quantitative evidence, in this chapter we embrace the idea that crime statistics are a record of policing, specifically of habitual offenders, and the data is analysed for indications that the authorities were preoccupied with female recidivists. Nevertheless it is difficult to gain an impression of discrimination from the figures because, just like the trial reports, they often fail to differentiate between the casual and recidivist offender. In these circumstances we have to assume that if the police returns indicate the discriminatory regulation of casual female offenders their persistently deviant sisters will have experienced discrimination too.⁸³⁵ The study of the policing of habitual offenders is, though, far more than the analysis of the annual crime figures.

⁸³⁴ Modern criminologists also find it difficult to research judicial attitudes: see for example, Frankway, 'The Study of Judicial Attitudes', p. 12.

⁸³⁵ This chapter focuses on recidivist offenders. Brief mention is made later of the inclination of the police to treat non-recidivist female offenders leniently, but there is not the opportunity to discuss the evidence.

Foucault's view, that surveillance was linked with maintaining social discipline and the creation of a criminal class, may shed light on the prominence of women in Dundee's recidivism records because it alerts us to the possibility that male and female recidivists were treated differently.⁸³⁶ Historical studies have found that certain groups the police associated with criminality were subjected to close scrutiny, and this had a noted impact on the constructed crime rates. In this way the Irish reputation for disorder became a self-fulfilling prophecy throughout Britain and North America and blacks became a disproportionately large presence in Chicago's courts in the 1920s.⁸³⁷ Closer to home The Habitual Criminals Act 1869 and Prevention of Crimes Act 1871 contained powers to arrest and convict British recidivists, on 'suspicion' that they were up to no good. And there is no doubt that surveillance was a standard tactic in the regulation of habitual offenders in Dundee.

'Few of our respectable, well-to-do citizens have any idea of the amount of careful watching ... habitual criminals require from members of the police force', wrote the city's Constable Dunn, in 1884. Indeed, the evidence demonstrates that plain-clothes constables and detectives followed known thieves, watched shebeeners and were used

⁸³⁶ Foucault, *Discipline and Punish*, p. 217. And previous historians draw on Foucault's view that the threat posed by working-class crime was exaggerated to justify 'juridical and police supervision' of the poor: Knox and McKinlay, 'Crime, Protest and Policing in Nineteenth-Century Scotland', p. 202.

⁸³⁷ Blacks continue to be overrepresented: Stewart and Baumer, 'Neighborhoods Racial Context and Perceptions of Police-Based Racial Discrimination among Black Youth'. On police surveillance in the past see Emsley, *The Great British Bobby*, pp. 11, 129, Weaver, *Crimes, Constables and Courts*, p. 116. For a discussion of the scrutiny of Irish communities see O'Mara, *The Autobiography of a Liverpool Irish Slummy*, p. 42, Swift, *Behaving Badly? Irish Migrants and Crime in the Victorian City*, pp. 13-14, Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago*, pp. 197, 205-206.

to protect uniformed officers apprehending and conveying offenders to the station.⁸³⁸ What we must determine is whether the police unduly targeted the female recidivist. As Prison Governor Geddes was of the view that those with over one hundred convictions were ‘known thoroughly’ by the authorities, we can imagine that P.C. Dunn and his colleagues may have singled her out for attention.⁸³⁹ But before we can investigate the impact of the criminal justice system on Dundee’s recidivism figures we must make it clear that the consequences, for anyone committing a petty offence, hinged on how individual police officers and judges used their discretion.

5.1 Discretionary Policing and Sentencing

The policing of petty offending, then as now, was discretionary. In the words of Reverend Morrison, in *Crime and its Causes* (1891), which will be repeated throughout the chapter, sometimes the police exercised their discretionary power ‘in the direction of stringency, sometimes leniency.’⁸⁴⁰ If Dundee’s police were inclined to adopt a stricter line with female repeat offenders than with their male counterparts this could explain the gendered patterns in the city’s recidivism records.

We can be sure that, in their approach to petty offenders, Dundee’s police exercised discretion at every turn. In the first place they determined whether the person’s behaviour had violated the law, and, if so, the constable, who was largely untrained

⁸³⁸ Lamb 237(5), p. 3, C, 21 August 1893. Similarly known offenders in Liverpool were ‘constantly targeted’ by the police: Macilwee, *The Liverpool Underworld*, pp. 42-43.

⁸³⁹ *RHO*, 13,213.

⁸⁴⁰ Morrison, *Crime and its Causes*, p. 7.

(and not expected to be fully familiar with the Criminal Code or local byelaws),⁸⁴¹ was entrusted with deciding what action to take: to caution, fine, make a formal arrest and take before the court, or simply to incarcerate over night. Just because a defendant was taken to the police station did not mean that she would appear in the dock. As has been found elsewhere, each week scores of drunk and disorderlies, who had spent the night in a police cell, were released without charge the next morning.⁸⁴² And discretion similarly shaped the court system.

Contemporaries complained that judicial discretion enabled hugely disparate sentences to be passed for the same offence of the same gravity. For Home Secretary Harcourt, in 1883, this was ‘one of the great scandals of ... criminal jurisprudence’, but despite his disquiet no legislative action followed.⁸⁴³ An extreme, although by no means unique local example of judicial autonomy concerns Bailie D.S. Smith. In his first case at Dundee’s Police Court he imposed a fine that he paid himself, and in his final case he dismissed the accused, with the remark: ‘[a]s it is your first appearance here, and my last appearance I will let you go’. Because Dundee’s press complained in 1907 and again in 1925 about ‘the inconsistency’ of sentencing at the Police Court,

⁸⁴¹ Similarly elsewhere the police were given little training: Weaver, *Crimes, Constables and Courts*, p. 99. And, as in England, Dundee’s police constable was under the guidance of his chief constable and the station-house inspector, who may or may not ratify his decisions to prosecute.

⁸⁴² Similarly in Toronto, in 1895, the ‘Golden Rule’ byelaw allowed the police to discharge drunkards thereby avoiding the problems of holding prisoners overnight for court the next day: Boritch and Hagan, ‘A Century of Crime in Toronto’, p. 582. Knox and McKinlay find evidence of a similar policy in Glasgow: ‘Crime, Protest and Policing in Nineteenth-Century Scotland’, p. 204.

⁸⁴³ For more Scottish evidence see *RHO*, 8976. This was not only an issue with the competency of magistrates, sentences contrasted starkly in the Old Bailey: Smith, *Oxford History of Laws*, pp. 116, 124, 170, 174. Also Barrett, *Crime and Punishment in England*, p. 287 and Palk, *Gender, Crime and Judicial Discretion*, p. 1.

it seems idiosyncratic sentencing was a feature of the local judiciary in the period.⁸⁴⁴ Later we will discuss Dundee's magistrates and whether they were more inclined to be harsh when female recidivists appeared before them. But we begin the search for evidence of the inequitable treatment of Dundee's female offenders with the challenging question of the beat Bobby's perception of female criminality. For it is only by gauging their attitudes towards female drunks and prostitutes, and by pinning down how ratepayers wanted the police, as servants of the state, to respond to habitual offenders, that we can establish whether policing was a significant factor in the predominance of women in the city's recidivism records.

5.2 Women Recidivists and the Police

5.2 a) The Attitudes of Dundee's 'Oatmeal Monuments'

Were the police prejudiced against recidivist women? This is an important question because, in the period, the police both reflected collective values and shaped them.⁸⁴⁵ But it is a difficult question to answer when opinion, as the crime historian Paul Lawrence explains, 'is rarely coherent among any given group of individuals, is often transient and can occasionally be intentionally obscured'.⁸⁴⁶ Haia Shpayer-Makov and, most recently, Joanne Klein have also acknowledged the difficulties of trying to pigeonhole the opinions of the police in the period. Officers, they argue, developed

⁸⁴⁴ *PJ*, 14 September 1907, 31 October 1925. General Charles Booth similarly referred to the case of 'Rose' who had been in court fifty times for drunkenness. The magistrate remarked that as this was her 'jubilee' he would let her go free: *In Darkest England and the Way Out*, p. 184.

⁸⁴⁵ Mitchell and Smith eds, 'English Law 1820–1914: A Review', p. 336.

⁸⁴⁶ Lawrence, "Images of Poverty and Crime": Police Memoirs in England and France at the End of the Nineteenth Century', p. 66, similarly Richard Mc Mahon warns of the danger of defining police attitudes, given that the complexity of opinion is concealed, but he thinks it is a risk worth taking: *Crime, Law and Popular Culture in Europe, 1500–1900* (Devon, 2008), p. 244.

their own experiential sociology as a result of learning from veterans on the job, by integrating into the existing local police culture and, inevitably, they were influenced by their individual experience on the streets during their time in public service.⁸⁴⁷ As this chapter is concerned to discover whether the police were inclined to discriminate against female drunkards and prostitutes it is logical, notwithstanding the inadequacies inherent in generalisations, to outline what seem to be the views of the men who were employed to keep the streets clear of obstruction and to arrest those guilty of an offence.

There is no direct evidence concerning how the men who patrolled Dundee's streets considered recidivist women, which is disappointing given that the trial reports do not reveal whether they applied differential standards to men and women when making an arrest. Tangentially it is valuable to note that the evidence concerning recidivists generally betrays their inclination to take a tough line. Constable Dunn, in his essay of 1884, for example, complained of 'a growing tendency to look leniently' on the 'evil' of brothels, associated as they were with robbery and drunkenness as well as the vice trade.⁸⁴⁸ And a local gathering of officers, in 1887, heartily agreed that there was 'too great a feeling of sentiment towards criminals in the country' (that the speaker

⁸⁴⁷ Shpayer-Makov, *The Making of a Policeman*, p. 98, Klein, *Invisible Men*, p. 26, similarly Boritch, 'Conflict, Compromise and Administrative Convenience', p. 151. As far as I am aware there is no British equivalent of Herbert Reinke's 'Robert Heindl's Bernfsverbrecher': Police Perceptions of Crime and Criminals and Structures of Crime Control in Germany During the First Half of the Twentieth Century', in Amy Gilman Srebnick, René Lévy, eds, *Review of Crime and Culture: An Historical Perspective* (Ashgate, 2005), pp. 49-63. But one of the few studies of senior police attitudes is David S Wall's *The Chief Constables of England and Wales: The Socio-Legal History of a Criminal Justice Elite* (Dartmouth, 1998).

⁸⁴⁸ Lamb 237(5), p. 7.

referred to in the masculine).⁸⁴⁹ Because no more evidence on how the police perceived female recidivists has been located it is helpful to identify their perception of the role of women in society, since understanding how the beat Booby expected 'normal' women to behave will have shaped his attitude towards female offenders.

Unfortunately, it is as difficult to locate relevant sources on what rank-and-file officers thought about women's role, as it is to discover their views on recidivists. Guidance, though, is offered by the historian John Carter Wood, when he argues that policing was an essentially artisanal profession and that recruits, drawn from the respectable working class, shared the prejudices of the people they policed.⁸⁵⁰ As Dundee's Bobby ('Robert' as he was known in Scotland and nicknamed locally as the 'Oatmeal Monument') was recruited from the unskilled respectable working class in the Angus countryside and the Highlands, it is likely that he had been socialised according to the strict Protestant culture of sobriety and decency that demanded high moral standards of women. And, since Dundonian society was dominated by patriarchal attitudes, following Carter Wood's reasoning, it is likely that he shared the prevalent view within the city, of women as homemakers.⁸⁵¹ How Robert exercised his discretion, with the drunks and prostitutes he met on his rounds, could, however, be channelled more directly by public opinion.

⁸⁴⁹ The speaker though was presumably referring to professional rather than petty criminals. He added that he 'thought it was an abuse of all kindness that men who were outraging the laws of society in every possible form, and were a positive danger and hindrance not only to civilisation, but to every good that the people cherished, should be treated kindly and housed so well and prepared for more crime', *WN*, 12 March 1887.

⁸⁵⁰ John Carter Wood, 'Self-Policing and the Policing of the Self: Violence, Protection and the Civilizing Bargain in Britain', *Crime, History and Societies*, 7 (2003), p. 122.

⁸⁵¹ In the previous chapter it was shown that Dundee embraced the traditional domestic role of women, notwithstanding the crucial female place in the jute industry.

Dundee's officers were under constant public scrutiny. Newspaper letter-columns provided disgruntled citizens with the opportunity to publicly remind officers that they paid rates to be protected from violence and offence.⁸⁵² If the public considered the policing of drunken women to be a higher priority than the policing of drunken men, the double standard towards female drunkenness may explain the specificity of Dundee's recidivism returns. But, recalling the discussions, in Chapters 2 and 4, on attitudes towards female drinking, determining the public expectations of policing is difficult since complexities and contradictions marked the contemporary response towards female deviance. Even though there were clearly negative stereotypes associated with some of Dundee's women, as the next section will show, we cannot be sure of the impact of cultural constructions on the city's police force.

5.2 b) Public Sentiment and Policing

C.H. Rohl recalls seeing men and women in London, during the pre-World War I years, reeling about drunk and fighting in the street at night. It was, though, the 'spectacle of women slogging at each other', that was, for him, particularly 'horrifying'.⁸⁵³ His sentiment is not surprising given that according to sociologists men and women are judged differently. In the previous chapter local evidence was revealed, concurrent with the findings of many historians, that the female drunkard, as the antithesis of the idealized Victorian woman, was offensive to respectable Victorian and Edwardian society, but we also found evidence of a tolerance towards

⁸⁵² For example *DA* 13 February 1866, *PJ* 4 August 1900. And everything from the cost of police administration, to the cost of the constable's helmet was discussed in the press.

⁸⁵³ Rolph, *London Particulars*, p. 76.

female drunkenness, presumably because of its quotidian nature.⁸⁵⁴ The photograph below (Image 5.1) provides a clue that Dundee's male inebriate-recidivist was not necessarily characterised as any less offensive than his female counterpart, even though, according to social scientists, traditionally the male alcoholic was portrayed as the 'Noble Savage': his behaviour confirming his masculinity.⁸⁵⁵

No details have survived concerning the identity of the man being escorted by the police, and so we cannot be sure that he was a drunkard, but his dirty appearance indicates that he was a down-and-out. It is the curiosity of the children and the look of revulsion on the faces of the women passers-by that is important for our purposes; for it belies a mood whereby the police were under pressure to remove down-and-outs from the city streets without (gender) qualification.

⁸⁵⁴ For example Morrison, 'Ordering Disorderly Women', pp. 127, 185, Gunn, *The Public Culture of the Victorian Middle Class*, p. 65, Zedner, *Women, Crime and Custody*, p. 228. See in Chapter 4 Section 4.4 f) 'A drunken woman is a far worse sight than a drunken man'.

⁸⁵⁵ Barbara C Leigh, 'A Thing So Fallen, and So Vile: Images of Drinking and Sexuality in Women', *Contemporary Drug Problems*, 22 (1995), p.420, Marja Holmila, 'Social Control Experienced by Heavily Drinking Women', *Contemporary Drug Problems*, 18 (1991), p. 553.

Image 5.5: The Arrest of a Male Offender



From: DLHC B7.2.⁸⁵⁶

Providing a snapshot of public attitudes in the period is fraught with difficulties and it is impossible to establish with certainty the extent to which women recidivists were a particular cause of offence for ratepayers. On the one hand, because Reverend Williamson observed in 1905 that Dundee's respectable class were 'afraid to go among' mill girls—as they would 'encounter profanity, coarseness, and evil threats'—the female recidivists' drunken, vulgar and aggressive manner was surely a greater cause of trepidation.⁸⁵⁷ Yet, like today, most female crime was not a serious threat to public safety. Margaret Gow, the evidence suggests, was deemed a harmless and

⁸⁵⁶ I am grateful to the Local History Centre, Dundee Central Library for permission to reproduce this photograph, about which no information is recorded.

⁸⁵⁷ *PJ*, 8 July 1905 similarly *Piper*, 8 February 1899.

pitiful figure; nicknamed ‘Mag Gow’ she was discussed with humour in the press.⁸⁵⁸

It is also significant, given that Belfast police were instructed to keep inebriated women out of sight, that the back streets were not sought when conveying Dundee’s female drunkards to the station.⁸⁵⁹

It is not unreasonable to assume that respectable Dundonians would condemn (and be intimidated by) ‘the roughs’ of either sex. The men—whom we know from the letters to the press—‘loaf[ed] at street corners ... evidently enjoy[ing] putting passers-by to as much inconvenience as possible’, were probably a greater focus of public alarm than either the millgirls or the women recidivists. And the evidence, that there is not the opportunity to discuss here, indicates that men were a higher risk to public safety than women.⁸⁶⁰ Hence the inescapable fact seems to be that the police were under equal, if not greater pressure to remove the men from their positions (only, as it happens, for them to return a few minutes later).⁸⁶¹

What we can say with precision is the Dundee’s sources demonstrate that contemporary social attitudes towards female habitual drunkards were more complex and contradictory than the feminist studies of female criminality in the period recognize. Put crudely, the local sources hardly support the idea that the gendered nature of Dundee’s recidivism records was the result of sexist police attitudes.

⁸⁵⁸ C, 12 August 1879, Zedner too notes that the Victorian female habitual was simultaneously feared and pitied: *Women, Crime and Custody*, p. 229.

⁸⁵⁹ Boyle, ‘Women and Crime in Belfast, 1900–1913’, p. 173.

⁸⁶⁰ The newspaper reports of the ‘crimping class’ suggest that there were some very violent men in Dundee, a point that will be evidenced in the conclusion.

⁸⁶¹ DA, 3 May 1886, WN, 14 April 1888 and Watson, *Dundee*, p. 119. Able-bodied men standing listless on street corners for hours a day was a familiar sight in British cities: Nicolson, *The Perfect Summer Dancing into the Shadow*, pp. 178, 198. In Liverpool there was a crackdown on the menace of ‘cornermen’ in 1884: Macilwee, *The Liverpool Underworld*, p. 250.

Nevertheless, soliciting in this era was a female nuisance without male equivalence, and the visibility of street prostitutes and their drunken and disorderly behaviour may have made them vulnerable to arrest. What we have to consider, therefore, is whether the regulation of prostitutes can explain why it was typically women recidivists who had scores of convictions.

Public display was inevitably part of the prostitute's trade to attract men.⁸⁶² While some women were discreet, there is evidence from New York, Edinburgh and Dublin of prostitutes, in this period, sitting on pavements, standing at doorways and advertising themselves at curtainless-tenement windows.⁸⁶³ If this was a feature of the Glaswegian vice trade it is unsurprising that a middle-class contemporary described soliciting, in 1862, as an 'intolerable nuisance ... Destroying the value of property ... [more] than any chemical work, dunghill or anything else you like'.⁸⁶⁴ Although no reference has been found in Dundee of similarly immodest soliciting, the public visibility of prostitution would account for something of Fish Street's reputation as a red-light district.⁸⁶⁵ And given the reluctance of the city's press to discuss the vice trade, noted in Chapter 3, it is reasonable to assume that ratepayers regarded streetwalkers with distaste and irritation which, by implication, indicates they would have objected to seeing them wandering the city-centre thoroughfares. From here it is logical to imagine that public sentiment encouraged the police to be vigilant at the shore. However, a more detailed search of the archives reveals the

⁸⁶² Murphy, 'The Private Lives of Public Women', p. 32.

⁸⁶³ *S'man*, 20 July 1878, Luddy, *Prostitution and Irish Society*, p. 36, Clement, *Love for Sale*, pp. 103-4, 111. In New York's red light district girls were naked under kimonos and occasionally flashed their breasts to passing males: Rosen, *The Lost Sisterhood*, p. 83.

⁸⁶⁴ *C*, 1 January 1862.

⁸⁶⁵ According to Dundee's trial reports it was common for a prostitute to identify herself by stopping a man and asking him to 'stand her a drink'.

difficulties in generalizing either on the police response to streetwalkers or the ratepayers' mood. As McLaren observes about Victorian Canada, we also find 'schizophrenic' attitudes towards prostitution in Dundee (just as there were towards women and drink).⁸⁶⁶

Certainly the press was wary when reporting on moral subjects, but this does not mean that misogynist attitudes were prevalent, or that ratepayers were unsympathetic to the sufferings of prostitutes. Indeed, as elsewhere, there are indications that a number of contemporaries believed that women were forced onto the streets through poverty. And we should not imagine that they were ignorant of the fact that double standards compounded the misery of the lowest and most vulnerable members of society. Françoise Basch observes that contemporary studies and popular novels were characterised by a plea for charity towards prostitutes and a condemnation of the double standard.⁸⁶⁷ And since hundreds of sailors passed through Dundee's port,

⁸⁶⁶ McLaren, 'Chasing the Social Evil: Moral Fervour and the Evolution of Canada's Prostitution Laws 1867–1917', p. 139.

⁸⁶⁷ It is highly likely that ratepayers were influenced, to some degree, by widely known social explorers. *The Pall Mall Gazette* articles on the 'Night in Lambeth Lodging House' were reprinted in Scotland and indeed Dundee: *S'man*, 17 January 1866, *DA*, 15 January 1866, and this is the first in a long series of articles on London's poor. The local press also carried advertisements for James Greenwood's survey of poverty, *The Seven Curses of London* (1866) – including its relevant contents list detailing, in Chapter 4, 'Fallen Women', and in Chapter 5, 'The Curse of Drunkenness': *C*, 12 July 1869. And we can assume that there would have been an awareness of the findings of the government enquiries and the local statistical societies—established early in the period—that highlighted the cruelty of poverty. For example the *Report on the Inquiry into the Housing of the Working Classes* (1885) and the *Report on the Royal Commission on the Poor Laws and Relief of Distress* (1909). On novelists see: Françoise Basch, *Relative Creatures: Victorian Women in Society and the Novel* (New York, 1974). She refers to Dickens and Elizabeth Gaskell pp. 17, 228, 264–265. Also see Chapter 14 'Fallen Women', in Claire Tomalin's *Charles Dickens: A Life* (London, 2011). We should not forget W E Gladstone's attempts to help London prostitutes, or that in the 1870s the London journalist W T Stead said he was 'racked with anguish' every time he saw one: quoted in Donald, *The Victorian Underworld*, p. 85. On this see: Durston, *Victims and Viragos*, pp. 204–

ratepayers may have taken the pragmatic view that, as long as the vice trade was confined to the harbour and was not a public nuisance, the police should be tolerant of prostitutes. Indeed, in 1913 Chief Constable Carmichael explained to the committee, discussing the problem of young prostitutes working around the harbour, that '[i]f the police were to interfere ... they would find themselves at fault, and they would be severely taken to task'.⁸⁶⁸ His statement is important for it underscores the existence of powerful voices against the zealous policing of young prostitutes at least.

Whilst public attitudes are undoubtedly important to the study of female recidivists, it would be erroneous, however, to assume that public opinion was necessarily a dominant or consistent influence on how the constable exercised his discretion in the period, or that the police reflected strict Protestant values. *The People's Journal* decried the inadequacy, as it saw it, of the police response to female petty crime in 1905 when it reported that 'most' of Dundee's population were unhappy that its force did not tackle the problem of women's bad language as rigorously as other Scottish forces.⁸⁶⁹ And it is also striking that there is no evidence that Dundee's officers were persuaded by the temperance belief that the main cause of working-class misery was their addiction to drink.⁸⁷⁰ Constable Dunn thought that the best way to reduce the

206. Attwood, *The Prostitute's Body*, pp. 153, 2, Dodge, 'Whores and Thieves', p. 128.

⁸⁶⁸ *S'man*, 14 May 1913. Dundee's police statistics indicate that women aged between 20-30 years were most frequently arrested for soliciting (40%), 28% were between 30 and 40, 22 % were between 10 and 20 years and 10 % over 40: *PoR*, 1876-1900 for more figures on age see Appendix 2.1.

⁸⁶⁹ *PJ*, 25 November 1905, similarly 29 June 1907, *RHO*, 11,906.

⁸⁷⁰ A typical expression is seen in the criticism that the working classes did not save any money during the war, but spent their wages on drink: *S'man*, 21 November 1925. Similarly Frances Zanetti's 'Inebriety in Women and its Influence on Child Life', *The British Journal of Inebriety*, 1 (1903), 47-68.

appeal of alcohol was to address the city's appalling housing conditions.⁸⁷¹ This was probably a common opinion amongst his colleagues in the Constabulary's Sanitary Department given that their duties included inspecting and reporting on the condition of shared tenement areas and the overcrowded lodging houses.⁸⁷² And since the wife of one of Dundee's police sergeants was a heavy drinker—we know this because the press reported how she had pawned the household possessions and spent the money on alcohol—it is reasonable to suspect that many officers held very different opinions to those, represented by the articulate minority, that have survived in print.⁸⁷³

As was explained in Chapter 4, the leading studies of Victorian criminality have led us to expect that Chief Constable Dewar would have advanced double standards, and that prostitutes would have suffered particular censure. In fact, *The Journal's* coverage of discussions regarding the renewal of a publican's license, in 1905, sheds a very different light on the chief constable's attitudes towards both female drinking and prostitutes. 'To be plain, this is a house to which women of bad fame have been in the habit of going', Dewar told the licensing court. What is important for our purposes is that he stressed that 'these women [were] perfectly entitled to go into the bar of a public-house and get served'.⁸⁷⁴ Also indicative of the narrowness of the feminist histories of prostitution, Chief Constable Ross of Edinburgh believed that

⁸⁷¹ Lamb 237(5), p. 7.

⁸⁷² *C*, 21 August 1893. In Scotland the police had responsibilities for public health. In Dundee in 1875 258 persons were arrested for overcrowding lodging or other houses, *PoR*, 1875 p. 23. For a similar discussion: Goldsmith, 'The Development of the City of Glasgow Police', pp. 290-320.

⁸⁷³ The case of Sergeant John Mackay (*WN*, 5 April 1879) is interesting because policemen and their wives were expected to be models of working-class respectability: Emsley, 'My Ancestor Worked in ... the Police Force', p. 76.

⁸⁷⁴ *PJ*, 14 April 1905.

streetwalkers were ‘in many instances more sinned against than sinning,’ and that their male clients should equally be prosecuted.⁸⁷⁵

Still, arrests did not rely entirely on police initiative, and working-class prejudices might account for something of the over-representation of women in the records. In Dundee, mill girls, with a questionable reputation, were ‘scorned ... pointed out and insulted’ by their fellow operatives at Baxter’s mill.⁸⁷⁶ It is predictable, therefore, that the city’s female recidivists would be ostracised by some sections of the working class and we do, in fact, find indicators of prejudice.⁸⁷⁷ Euphemia Duff, for example, told the magistrate that it ‘was all through spite amongst her neighbours’ that she was brought before the court.⁸⁷⁸ In similar circumstances Mary Anne Stewart said it was ‘dirty old hags that had come against her’.⁸⁷⁹ It is reasonable to suppose that women associated with prostitution would be most strongly stigmatised as ‘the other’ in the slums.⁸⁸⁰ Jane Walsh recalled, of her Edwardian childhood, that ‘standards of sexual morality’ were high in Oldham’s slummiest districts. And an absence of social mixing is certainly implied in the 1880 press report of the ‘well attired’ Dundonian woman, who gave birth in the street – the language indicates she was a prostitute. One reason why the policeman who came across her ‘was unable to induce any inhabitant to take

⁸⁷⁵ *S’mam*, 16 March 1915. As it happens, the phrase was routinely used throughout Britain in the period, and without sarcasm, in defence of women who did not conform to the social norms: *WN*, 11 March 1893, *The Lancaster Gazette* 16 March 1889.

⁸⁷⁶ *DYB*, 1903, p.154.

⁸⁷⁷ *WN*, 17 September 1883, 3 October 1884, 27 June 1885.

⁸⁷⁸ *C*, 8 June 1883.

⁸⁷⁹ *C*, 29 October 1889, similarly 9 November 1886, *WN*, 6 May 1893, 17 July 1880.

⁸⁸⁰ On the stigmatization of habitual offenders: Emsley, *The Great British Bobby*, pp. 11, 129. On the outcast status of prostitutes: Evans, *Tales from the German Underworld*, pp. 166, 168.

her into their house', was presumably because suspicions would be raised about their own respectability by an association.⁸⁸¹

But so far the study of police and public attitudes in Dundee has produced little evidence of a sexist ideology informing a differentiated police response to the male and female habitual offender. There are, however, a number of documents that do offer clues of a gendered police policy sufficient to support the feminists' belief that double standards were historically applied to female offenders.

5.3 Evidence of Discriminatory Policing

As the following sections will discuss, there are two indicators that policing was responsible for Dundee's gendered recidivism records. The first is provided by a series of conviction statistics, found in Appendix 5.2, as these show that female offenders were far more likely to be brought before the magistrates than their male counterparts.⁸⁸² The women recidivists themselves provide the second indicator, for a significant number complained vociferously to the magistrates of police brutality and victimisation.

5.3 a) The Conviction Statistics

⁸⁸¹ Walsh, *Not Like This*, p. 12. *C*, 13 November 1880. Similarly, *WN*, 15 June 1895, 2 July 1870.

⁸⁸² In Scotland it was official policy to detain drunken people over night for 'protection' and liberating them next morning without bringing them before a magistrate. In Glasgow about 25,000 cases were dealt with in this way annually see Sherwell, *The Drink Peril in Scotland*, p. 12 and the point was also raised earlier in this chapter.

The veracity of the double deviance theory does appear to be borne out by the two sets of local conviction statistics spanning the years 1871–1895. They record that a greater proportion of women, taken up by the police, both came to court and were convicted than the proportion of men taken up for petty public order crimes. For the offence of ‘assault, breach of the peace’, according to the 1871–1895 returns, on average 67 per cent of the males apprehended by the police were brought before the magistrates, compared to 78 per cent of their female counterparts. The drunkenness statistics show an even greater disparity: from 1880–1895 an average of 54 per cent of the men apprehended for drunkenness came to court, while 79 per cent of women drunks found themselves before the magistrates.⁸⁸³

Unfortunately the conviction statistics, showing that males were more likely to be released without charge, are an amalgamation of the police records concerning both casual and habitual offenders. Nevertheless, because it seems that all women offenders were more likely than men to be brought before the courts, this would mean that a drunken and disorderly offender, like Mary Anne Stewart, would amass convictions more rapidly than her male counterpart. In short, Stewart would be defined as a habitual offender before her male counterpart, notwithstanding that they both had had an equal number of run-ins with the police. Thus, the quantitative evidence appears to concur with the previous studies that found the police reinforced unequal standards of order according to the prevailing notions of gender.⁸⁸⁴ Whether

⁸⁸³ The figures and calculations are shown in Appendix 5.2. See also Monkkonen for discussion of how the dismissal rate can measure police harassment: *Police in Urban America*, p. 84.

⁸⁸⁴ For example Megan Kozminksi, ‘Patrolling Winnipeg ‘According to Order’: A Social History of Policing in a Prairie City 1874–1900 (unpublished MA dissertation, University of Manitoba, 2004), p. i. See also Chapter 4 Section 4.4 a) Female Recidivists: Were They Labelled Bad?

the local qualitative evidence also provides a picture of prejudicial policing is altogether harder to determine.

5.3 b) Complaints of Police Violence and Fabricated Evidence

A number of habitual offenders complained to the magistrates about the police. The Stewart sisters said that they could ‘not get peace’ to walk the streets such was the ‘animosity [of the police] against them’.⁸⁸⁵ Jane Thomson or Arnot said ‘the detectives would not let her alone’.⁸⁸⁶ And Jessie Sutherland Roberts was one of many women who complained about police violence. In her case, she denounced officers for making ‘a playba’ of her head (by crashing it ‘on the plainstones’ and knocking it ‘against the side o’ the [drunks’] barrow’).⁸⁸⁷ There were also allegations that pairs of arresting constables lied on oath to justify making an arrest.

888

Lowe argues that by the mid-nineteenth century the police represented one of the most demanding occupations. Officers were expected to be courteous and exercise self-restraint at all times.⁸⁸⁹ In contrast Dodge, amongst others, is convinced that well into the twentieth century untrained policemen operated within a criminal justice system that generally placed little emphasis on procedure.⁸⁹⁰ Underpinning their view is the persistent contemporary belief that many constables abused their position in

⁸⁸⁵ C, 31 August 1877.

⁸⁸⁶ C, 28 August 1886.

⁸⁸⁷ WN, 24 July 1875, also 21 August 1886, 13 May 1871, 19 March 1887, 10 July 1880. Similar allegations of police violence against women are recounted in Macilwee, *The Liverpool Underworld*, p. 260 and Morrison, ‘Ordering Disorderly Women’, p. 228.

⁸⁸⁸ C, 31 August 1877, WN, 17 July 1880, 19 March 1887, RHO, p. ix.

⁸⁸⁹ W J Lowe, ‘The Lancashire Constabulary, 1845–1870: The Social and Occupational Function of a Victorian Police Force’, in Louis A Knafla, ed, *Crime, Police and the Courts in British History* (London, 1990), pp. 222-3.

⁸⁹⁰ Dodge citing Mark H Haller: *Whores and Thieves*, p. 73.

court.⁸⁹¹ In fact the Dundee archives, like so many in Britain, bears testimony to the magistrates' frequent unwillingness to take uncorroborated police testimony for fear of producing an unsound verdict.⁸⁹² However, we must acknowledge that there are numerous ways that the women's allegations of police malpractice can be interpreted.

Bronwyn Morrison believes that complaints of police violence, by female inebriates, open up 'a crucial space' to construct a truthful picture of the experience of drunken women.⁸⁹³ For Jane Purvis the incidents of police violence are indicative of the officers' negative attitudes towards women.⁸⁹⁴ According to this perspective allegations of police brutality may be signals that can explain something of why women were a distinct majority in Dundee's recidivism records. On the other hand, since Emsley, amongst others, argues police violence was commonplace in rougher districts before World War I, and the respectable community usually turned a blind eye, it would not be untoward if constables, who had been employed for their brawn, resorted to violence in dealing with female recidivists.⁸⁹⁵ Crucially, because

⁸⁹¹ Taylor, *Hooligans, Harlots and Hangmen*, p. 61, Petrow, *Policing Morals*, p. 83, Emsley, *The Great British Bobby*, pp. 73, 8, Klein, *Invisible Men*, p. 6, Durston, *Victims and Viragos*, p. 215.

⁸⁹² *WN*, 21 August 1886, 30 July 1870. Although only a handful of rank-and-file officers were dismissed for fabricating evidence against prisoners and most dismissals as we would expect were for drunkenness. But a Liverpool contemporary believed that the police should do no more than 3 months' duty in areas rife with prostitution and drunkenness as they would become corrupted: Macilwee, *The Liverpool Underworld*, p. 113. Also see Emsley, *The Great British Bobby*, p. 85.

And Boritch is in no doubt that Toronto constables violated rules on a regular basis. The majority of disciplinary actions however did not involve serious charges of abuses of authority or partisan conduct: 'Conflict, Compromise and Administrative Convenience', pp. 151, 155.

⁸⁹³ Morrison, 'Ordering Disorderly Women', pp. 228, 232.

⁸⁹⁴ Jane Purvis, 'Deeds, Not Words': The Daily Lives of Militant Suffragettes in Edwardian Britain', *Women's Studies International Forum*, 18 (1995), p. 93.

⁸⁹⁵ Clive Emsley, 'The Thump of Wood on a Swede Turnip': Police Violence in Nineteenth-Century England', *Criminal Justice History*, 6 (1986), p. 129 and Emsley,

Dundee's male defendants also complained of rough treatment it seems unlikely that policing was guided to any considerable extent by double standards.⁸⁹⁶

In at least some instances it is possible that a mutually provocative relationship may have developed between offenders and the police. There was laughter in court when Ann Lynch 'ridiculed the idea of a small woman like her assaulting a big policeman', yet at twenty-four years of age she already possessed numerous convictions for assaulting officers.⁸⁹⁷ We have seen that the Stewart sisters complained of police animosity, a fuller picture shows that hostility existed on both sides.⁸⁹⁸ According to the press, after two officers warned them about their behaviour they 'fired [back with] a rattling volley of oaths and maledictions'.⁸⁹⁹ And it is interesting to note that the pair were clearly familiar with using the law for their own ends: according to the court reports when the siblings were arrested for fighting, each sister brought a complaint of assault against the other.⁹⁰⁰

There can be no doubt that the police constable was vulnerable to malicious allegations. Firstly, many amongst the working classes had been brought up to dislike him and secondly, defendants concerned to escape prison would have been keen to

'My Ancestor Worked in ... the Police Force', p. 75, also Weaver, *Crimes, Constables and Courts*, p. 99.

⁸⁹⁶ For example *WN*, 19 March 1887, 12 October 1872, 10 July 1880, 19 October 1885. Marilyn S Johnson looks at the problem of police violence in New York: *Street Justice: A History of Police Violence in New York City* (Boston, 2003).

⁸⁹⁷ *WN*, 5 March 1887. For a discussion of an 18th century London prostitute, who was well known for her antagonistic relationship with the justice system see Shore, 'The Reckoning', p. 410.

⁸⁹⁸ *C*, 31 August 1877.

⁸⁹⁹ *C*, 12 December 1878 and 27 March 1879.

⁹⁰⁰ *C*, 5 September 1879.

highlight mitigating evidence.⁹⁰¹ And although allegations that the police lied on oath are particularly associated with women defendants, there is nothing remarkable about this per se given that a successful soliciting prosecution usually rested solely on police testimony, which, in turn, made it more likely for defendants to challenge the arresting officer's honesty. Still, like the majority of prostitution studies, this research has uncovered clues that local streetwalkers were prosecuted on the basis of their reputation rather than on clear evidence of wrongdoing.⁹⁰²

In 1894 Governor Geddes of Dundee Prison, who had been in post for seven years, told Scottish commissioners investigating habitual offending that he was convinced that prostitutes were often convicted on false evidence. '[C]ertain police', he said, arrested them 'although they [had] not committed the offence, simply because they know them'. He maintained there was a common expression amongst Dundee's prisoners that a 'woman who has been convicted has no chance'.⁹⁰³ Across urban Scotland prostitutes reiterated the same complaint with striking uniformity and, going off Jane Thomson or Arnot's court testimony, they appear to have had some justification.⁹⁰⁴ On her release from prison, Dundee's police followed the known offender 'everywhere' and warned the men she approached that 'she was a thief and a dangerous character'. The probable prostitute reacted to the officers' continued presence with curses, and when her anger drew onlookers she was apprehended for

⁹⁰¹ On anti-police culture see Woodward, *Kipping Street*, p. 87.

⁹⁰² Fingard, *The Dark Side of Life*, p. 112, Backhouse, *Petticoats and Prejudice*, p. 230, Bedford, 'Prostitution in Calgary 1905–1914', p. 7.

⁹⁰³ *RHO*, 13,168, 13,183 Similarly a case that is unfortunately scant on detail reveals that, in 1867, a Glasgow policeman was fined 'for apprehending a woman against whom he had no reasonable charge': *C*, 12 January 1867.

⁹⁰⁴ *RHO*, 12,669. In Liverpool prostitutes regarded their frequent arrest and fine as a kind of tax: evidence cited by Newby, *Women's Lives*, p. 141.

breaching of the peace.⁹⁰⁵ And this is not the only case where it seems that the police were determined to haul deviant women off the streets. Mary Ann Stewart, in one of her court appearances, told the judge that ‘other people [who] were worse’ than her were not picked up. She was ‘aye tak’ (always took) up by the police, she sarcastically reasoned, because she was ‘surely an awfu woman’.⁹⁰⁶

The local evidence, therefore, suggests that there was historically a process of victimisation consistent with the modern, feminist, finding that prostitutes suffer from police harassment.⁹⁰⁷ What we must consider next is what impact this had on the recidivism statistics.

5.3 c) The Impact of Corruption on the Recidivism Records

The import of the Geddes evidence is that the proportion of women recidivists in Dundee’s police records was probably inflated by the fabrication of evidence against prostitutes. We might reasonably expect that the mid-Victorian recidivist returns would, to some degree, bear the impact of the false prostitution convictions because there were serious issues of corruption, inefficiency and low morale in the Dundee Force under the leadership of Superintendent MacKay. Chief Constable David Dewar, however, was appointed in 1876 to improve standards, and, on taking office, half the Force resigned or was dismissed.⁹⁰⁸ Morale remained fragile, due to police pay being

⁹⁰⁵ C, 28 August 1886.

⁹⁰⁶ C, 11 November 1892.

⁹⁰⁷ Annette Ballinger, *Dead Woman Walking: Executed Women in England and Wales 1900–1955* (Dartmouth, 2000), p. 49.

⁹⁰⁸ *PoR*, 1878 p. 13. Donald MacKay was discussed in Chapter 2, see Section 2.2 a) The Development of Social Control. Incidentally, the terminology changed at the same time from superintendent to chief constable. Previous studies show that in the

lower than in other urban centres, although, as one of the city's magistrates observed, by the new century Dundee's Force was probably no more corrupt than any other.⁹⁰⁹

Indeed, in general, the press spoke well of Robert, and we read that Chief Constable Dewar himself was 'esteemed' throughout Scotland.⁹¹⁰

If the Victorian police did not have the training to be fair in the exercise of their discretion, by the inter-war years, due to the emphasis on professionalism, the standardizing of policing practice and the recruitment of educated men, this was probably no longer true.⁹¹¹ The local evidence shows that John Carmichael, who succeeded Dewar as the chief constable of Dundee from 1909 to 1931, set out 'to instil into his officers the importance of maintaining a high standard of conduct'.⁹¹² It was probably more than rhetoric. Klein argues that by this time British constables were expected to consistently abide by the regulations. She notes that officers who assaulted women, including prostitutes, verbally or physically, quickly lost their

mid century the vast majority of police constables failed to stick at the job more than a year, even though it offered secure employment and stable wages: Chris A Williams, 'Policing the Populace: The Road to Professionalisation', in Nash and Kilday, eds, *Histories of Crime*, p. 164, Phillips, 'Poverty, Unemployment, and the Administration of the Criminal Law', p. 148. For a discussion of police corruption in Scotland Yard in the 1870s and the new professionalism of the 1880s see Donald, *The Victorian Underworld*, pp. 308, 321. The revelations of corruption in the Manchester Force, in 1890, are analysed by Howell, Beckingham, Moore, 'Managed Zones for Sex Workers in Liverpool'.

⁹⁰⁹ *S'man*, 3 January 1903.

⁹¹⁰ *C*, 5 May 1888, *PJ*, 5 June 1920, 15 April 1922, *Piper* 20 August 1906, 13 April 1906. On Dewar: *PJ*, 17 June 1905.

⁹¹¹ Henry Turner Waddy's opinion is cited by Godfrey, 'Changing Prosecution Practices', p. 179.

⁹¹² Unknown, *City of Dundee Police 150th Anniversary*, and H M Inspectors' reports consistently give good accounts of discipline in the post-war years: *PoR*, 1923 p. 12, 1924 p. 14.

jobs.⁹¹³ What is more, public concern about the abuse of police powers in 1920's Britain makes it unlikely that the violence against women offenders would have escaped the attention of social commentators.⁹¹⁴ It is possible, however, that other forms of victimization continued unchecked.⁹¹⁵ Recognising the limited coverage of issues related to the vice trade in the local press, it is reasonable to assume that alleged injustices against Dundonian prostitutes are underrepresented in the city's archives, and, as Governor Geddes believed, they were often arrested on the basis of their reputation alone.

What we can tentatively conclude from the surviving sources is that unjust policing will have had some impact on the crime records. Probably it was most pronounced at the start of the period, and certainly the disproportion of women to men recidivists was at its peak then (Table 4.4, Chapter 4). But since male offenders also developed a contentious relationship with the police it is difficult to speculate to what extent the records reflect the victimisation of female offenders. In 1887, for example, John Cosgrove, in his defence for breach of the peace, declared 'that the police apprehended him for spite'.⁹¹⁶ Because women maintained a predominant position in the recidivism statistics into the 1930s, when police professionalism was more strongly established, the fabrication of evidence against prostitutes is surely not the

⁹¹³ Klein, *Invisible Men*, pp. 223, 8. Also The Prison and Police Officers Union aimed 'to purge the service of corrupt and unworthy members': *Police Review* (October 1913), cited in Rolph, *London Particulars*, p. 189.

⁹¹⁴ John Carter Wood, 'The Third Degree': Press Reporting, Crime Fiction and Police Powers in 1920s Britain', *Twentieth Century British History*, 21 (2010), pp. 464-485.

⁹¹⁵ Only when complaints about false evidence and harassment were raised will attention have been drawn to the possibility of an injustice and Klein believes that police violence rarely made it into the records: *Invisible Men*, p. 173.

⁹¹⁶ *WN*, 19 March 1887.

only reason why women were at least twice as likely as men to be hardened offenders over the six decades of the investigation and indeed beyond.

Later we will learn that the city's chief constables and magistrates shared the view that imprisonment provided prostitutes and female drunkards with an essential refuge from the dangers of the streets, and we will consider whether the authorities' paternalism was implicated in the gendered recidivism records. For the moment, though, our focus remains solely on the city's constabulary. In the previous sections we have considered evidence that shows that Dundee's police treated recidivist-women unfairly. The following discussion will highlight a series of documents that raise doubts about the extent to which that the city's recidivism records capture the existence of a discriminatory police force.

5.4 The Absence of Discriminatory Policing

5.4 a) The Experience of Prostitutes

A war on prostitutes is an obvious explanation for the disproportionate number of women in the recidivism records (and indeed the high level of female incarceration in inebriate reformatories noted by scholars elsewhere). Yet despite the fact that the public visibility of streetwalkers made them vulnerable to arrest, there is no straightforward picture of their discrimination in Dundee.⁹¹⁷ As prostitution was viewed as a form of vagrancy, the loitering statistics give a proxy of trivial arrests and hence the police harassment of prostitutes.⁹¹⁸ It is pertinent therefore, given that it

⁹¹⁷ Morrison, 'Ordering Disorderly Women', p. 225, Belknap, "'Offending Women'", p. 1073.

⁹¹⁸ Smith, *Oxford History of Laws*, p. 355.

was earlier estimated that there were annually 2,500 streetwalkers in the city, that, as Table 5.1 shows, from 1876–1904 on average less than two hundred soliciting arrests were made per year. An impression of police tolerance is also gained from the evidence that when the offences of ‘loitering’ and ‘importuning’ were jointly tabulated, uniquely in Dundee’s 1876 crime return, 235 men were brought before the magistrates compared to only 174 women.⁹¹⁹ In fact, other than the general clampdown on crime in the run up to the 1894 government commission, the arrest figures do not hint at any periodic drives against the vice trade. This was despite the police being instructed by the city’s Watch Committee, in 1890, to deal strongly with the nuisance of prostitution.⁹²⁰

A picture of policing in other major cities also challenges the idea that criminal justice authorities waged a war against prostitutes. Although prostitution was contained within specific areas in Glasgow, Goldsmith finds that perceptions of a ‘bigoted police are difficult to substantiate’ in face of the lack of evidence of a policy of deliberate oppression. Contradicting Mahood’s interpretation, discussed in Chapter 4, Goldsmith observes Glasgow’s local head constables responded pragmatically to the vice trade and were ‘determined to adopt as professional a stance as possible in light of the various pressures brought to bear by political, religious and philanthropic factions’.⁹²¹

And in Liverpool, under Head Constable Nott-Bower, Howell et al observe that

⁹¹⁹ *PoR*, 1876 p. 12.

⁹²⁰ *C*, 19 August 1890. Apprehensions peaked at the time of the Scottish commissioners’ investigation of habitual offending in 1893, at 335, and 1894 at 283. It is not surprising that the police did not yield to pressure from the Watch Committee; throughout Victorian and Edwardian Britain their counterparts reacted similarly. See David Taylor, ‘Policing and the Community: Late Twentieth-Century Myths and Late Nineteenth-Century Realities’, in Keith Laybourn, ed, *Social Conditions, Status and Community 1860 – c 1920* (Gloucestershire, 1997), p. 111, and Riegel, ‘Changing American Attitudes Toward Prostitution’, p. 445.

⁹²¹ Goldsmith, ‘The Development of the City of Glasgow Police’, pp. 370-371.

prostitution was managed rather than repressed. The policy of ‘localisation’ aimed to contain brothels to carefully managed districts and for sex work to be confined there.⁹²² The Dundonian sources support the thesis that prostitution was tolerated in the period.

It is midnight, April 1888, and around Dundee’s principal thoroughfares—Nethergate, High Street, Reform Street, Cowgate—are to be found prostitutes. As far as we can tell there is no policeman on the scene eager to fill his charge sheet with importuning arrests, at least none is mentioned by the journalist from *The Courier*, gathering impressions for a piece of social exploration.⁹²³ As we also find evidence that the city’s Christian lady missionaries (seeking to help sex workers) and potential customers had no trouble locating prostitutes at the harbour, it is likely that, in common with other ports, a red-light area was permitted here too.⁹²⁴ What we can take from these sources is that rank-and-file officers were probably left to exercise their discretion when determining how to respond to women soliciting. This would explain why the Governor of Dundee Prison commented, in 1894, that the arrest of a prostitute ‘might depend entirely upon a change of officer of police on certain beats’ and why considerable diversity in the policing of prostitution has been noted elsewhere.⁹²⁵ That is, some officers will have been keenly aware of the risk of

⁹²² Howell, Beckingham, Moore, ‘Managed Zones for Sex Workers in Liverpool’. In the same vein the Liverpool evidence suggests the police left ‘respectable class’ prostitutes alone: Macilwee, *The Liverpool Underworld*, p. 261. See also Charles Van Onselen, ‘Who Killed Meyer Hasenfus? Organised Crime, Policing and Informing on the Witwatersrand, 1902–8’, *History Workshop Journal*, 67 (2009), 1–22.

⁹²³ ‘THE NIGHT SIDE OF DUNDEE’, *C*, 20 April 1888.

⁹²⁴ *WN*, 16 September 1890.

⁹²⁵ *RHO*, 13, 130, p. ix and it was concluded that there was ‘the greatest diversity’ in the treatment of prostitutes amongst the Scottish police. Similarly Taylor, ‘Policing and the Community’, p. 111, Robert D Storch, ‘Police Control of Street Prostitution in

shaming innocent women, whereas for others if a woman was hanging about the street this was self-evidently a public nuisance and annoyance did not have to be proved.

But for more liberal policemen, the persistent annoyance of passers-by will have been necessary to justify an arrest for loitering for the purposes of prostitution.

Elsewhere it has been shown that a lack of resources often insisted that the police were tolerant towards streetwalkers.⁹²⁶ As we shall see next, in Dundee the lack of resources meant that rank-and-file officers had fewer opportunities to exercise their discretion in the direction of stringency than was apparent when we discussed the evidence of discriminatory policing earlier.

5.4 b) Limits on Resources and Motivation

There was a shortage of cells in Dundee's station houses and prison during the period of this research, and, more to the point, in 1885, H. M. Inspectors confirmed Chief Constable Dewar's repeated complaint that the force was too small to meet all of its duties.⁹²⁷ It is likely that inadequate manpower was one reason why *The People's Journal* complained about 'the kindness and forbearance ... [officers] extended towards the drunks', given that a former P.C. recalled that he was well aware of the impossibility of arresting all those intoxicated in the central Overgate district at

Victorian London: A Study in the Contexts of Police Action', in David H Bayley, ed, *Police and Society* (London, 1977), pp. 49-73.

⁹²⁶ Durston, *Victims and Viragos*, p. 218, Klein, *Invisible Men*, p. 46, McLaren, 'Chasing the Social Evil', pp. 127, 142, 147, Taylor, *Hooligans, Harlots and Hangmen*, pp. 18, 60-61, Petrow, *Policing Morals*, pp. 127, 129.

⁹²⁷ *C*, 5 August 1885, *WN*, 1 December 1888, *PJ*, 12 May 1900.

night.⁹²⁸ But even if resources had not been lacking, and notwithstanding the public pressure to bring more drunks before the courts, Chief Constable Dewar's officers were not inclined to deal formally with every drunk and disorderly that caught their attention.

Dewar's address to his officers in 1900 highlights an absence of zealous policing policy that will have impacted on the experience of the city's female recidivists. 'A great many people', he said, 'ran away with the idea that it was a matter of satisfaction and pleasure to the police to make apprehensions and get convictions at the Police Court.' The reality was, he said, 'entirely the reverse', because, ' [i]f a night constable made an apprehension he had to lose a great portion of his own time by having to attend the Police Court.' Indeed, the stresses of the night shift and the long hours drove many men away from public service.⁹²⁹ We should remember too that it was when making an arrest that the constable faced the highest risk of assault.

In his address, Dewar explained that offenders were not taken into custody where there was the possibility of enforcing a fine. And, as we saw in Chapter 1, around 30 per cent of local drunks and petty offenders avoided a court appearance in this way.⁹³⁰ That Dewar's men were discouraged from taking a zealous approach is also apparent in his reflection that '[s]eldom was anyone apprehended without being previously

⁹²⁸ C, 20 April 1888, J B W Christie, 'Crime', in J M Jackson, ed, *Third Statistical Account of Scotland the City of Dundee* (Arbroath, 1979), p. 577.

⁹²⁹ See Lowe, 'The Lancashire Constabulary', pp. 222, 236. Throughout Britain the Victorian and Edwardian police were often reluctant to arrest drunks and prostitutes, and the reasons that historians have identified for this correlate closely with those listed by Dewar in his speech. See Petrow, *Policing Morals*, pp. 179-180, Godfrey, 'Changing Prosecution Practices', pp. 177, 185, Taylor, *Hooligans, Harlots and Hangmen*, p. 61, Klein, *Invisible Men*, p. 180, Macilwee, *The Liverpool Underworld*, p. 109 and for another contemporary account: Rolph, *London Particulars*, p. 46.

⁹³⁰ See Chapter 1 where this finding was first mentioned.

warned', ⁹³¹ and this is borne out by the evidence, to be discussed shortly, that the pragmatic policing of petty offenders was behind a high dismissal rate. In letting 'criminals' go the evidence supports the previous studies that underline how the police, in the face of the practicalities of controlling vagrancy, drunkenness and prostitution, preferred to move on perpetrators rather than make a formal arrest – unless, and this is a crucial point in the context of the recidivism data, the individual was deemed to be causing public offence or of being persistently troublesome.⁹³² Incidentally, the fact that offenders were frequently moved on also supports the view that policing in the period was more about changing the location of people's behaviour rather than suppressing it.⁹³³

Our major concern is whether Dundee's arresting officers were more likely to consider female recidivists as posing a greater problem than their male counterparts, for reasons entirely grounded in gender discourse, as this would indicate that the female offender was more likely to be dealt with formally. Backhouse argues that in Canada the understaffed nineteenth-century police forces devoted the largest part of their energy to dealing with the most visible members of society's underclass.⁹³⁴ The comparison is relevant because Dundee's conviction returns, discussed earlier, do

⁹³¹ C, 25 September 1900.

⁹³² Smith, *Oxford History of Laws*, p. 97, Rawlings, *Crime and Power*, pp. 111-2, 335. Monkkonen argues that from the 1870s the police regarded the policing of these socio-moral crimes as a diversion from their pre-eminent role of crime fighting crime: *Police in Urban America*, a point raised in Chapter 2.

⁹³³ Knox and McKinlay find that the police in nineteenth-century Scotland were the state's 'agents of coercion': 'Crime, Protest and Policing in Nineteenth-Century Scotland', pp. 204, 206, 215. This is too simplistic. Moralising laws were only successful in criminalising working-class behaviour if the police were willing to enforce them and the evidence shows that, for various reasons, they frequently were not. In fact, the authors recognise that the majority of Glasgow drunks never appeared before the courts. Also see Macilwee, *The Liverpool Underworld*, p. 116.

⁹³⁴ Backhouse, *Petticoats and Prejudice*, p. 229. In the same vein Butler: *Daughters of Joy*, p. 101.

appear to support Backhouse's theory, since the arrest figures can be interpreted as evidence of the vigorous policing of drunken women, and the prostitutes' complaints indicate their victimisation. But, as we shall see now, there are also a number of contradictory clues suggesting that Dundee's recidivist women were not subjected to disproportionate levels of policing and these reveal the vulnerabilities in the thesis that the police were prejudiced against women offenders in the period.

It was commonplace for Dundee's female drunkards to benefit from police leniency. Of the presumed-prostitute Mary Stewart Campbell, for example, the magistrate heard that 'this was the first time the police had charged her', even though they had found her drunk repeatedly before.⁹³⁵ Far from Dundee being unusual, Godfrey finds that drunken and violent women often escaped police intervention since to arrest them invited ridicule.⁹³⁶ And it is surely significant that officers bribed London's infamous recidivist Jane Cakebread—a homeless alcoholic—to leave them alone and were actually seen running away from her in order to avoid having to bring a charge.⁹³⁷ Less dramatically in Dundee, it was only because Bridget Garrity—a woman who later appears on the inebriate blacklist—followed officers up the street, all the while

⁹³⁵ *WN*, 10 July 1880 and *DA*, 4 April 1876. Space does not permit a discussion of the policing of Dundee's female petty, non-recidivist offenders. Suffice it to say that the evidence indicates that the police were inclined to be lenient.

⁹³⁶ Godfrey cited by Morrison, 'Ordering Disorderly Women', p. 225. Taylor, 'Policing and the Community', p. 117, Petrow, *Policing Morals*, pp. 179-180, Wiener, *Reconstructing The Criminal*, pp. 297-8.

⁹³⁷ Morrison cites how Cakebread went to considerable lengths to get herself arrested and how female drunkards often 'directly interfered with police business and left little option available to officers but to arrest them': 'Ordering Disorderly Women', pp. 225-226. The evidence supports Klein's view that familiar drunks benefited from police leniency: *Invisible Men*, p. 97. A Pennsylvanian observer similarly noted, in 1918, that women had numerous encounters with the police before they were arrested: Louise Stevens Bryant cited in Belknap, "'Offending Women'", pp. 1070-1072.

cursing them, 'that they had to apprehend her [just] to get rid of her'.⁹³⁸ And further evidence running counter to what we were led to expect concerns the constable who told the magistrate that he had had 'no desire' to arrest the 'poor woman' he found sleeping on a doorstep one February night. He explained that he had 'tried to get her to go home, but she would not go'. He explained it was because her refusal to co-operate manifested itself in loud cursing that he charged her with breaching the peace.⁹³⁹ There is no reason to disbelieve his testimony given that the incident occurred during the winter of 1886, when a long-lasting frost added to the devastating effects of a severe trade depression. As for the treatment of the 'drunken vagrant women', who regularly went to the police station late at night 'begging for lodgings', they too were turned away unless their repeated noisy application had the effect of creating a street disturbance.⁹⁴⁰ Similar material led Michael Boyle to conclude that in Ireland, in the same period, there was no policy of hauling deviant women off the street.⁹⁴¹

The second clue that Dundee's recidivists were not subjected to disproportionate levels of policing is provided by the case of Mary Curr: it records that the city's most serious female recidivists benefited from police warnings. Curr was a habitual drunkard and thief, who had been sentenced to seven years' penal servitude. In 1876 she was living in Dundee's notoriously lawless Overgate slum, when she was brought to court under The Prevention of Crimes Act, for violating the conditions of her licence. What is significant about her case is that both Constable Smith, who patrolled the Overgate, and Police Inspector Lamb told the court that they had given her

⁹³⁸ *WN*, 9 January 1886.

⁹³⁹ *WN*, 20 February 1886.

⁹⁴⁰ *WN*, 10 July 1880.

⁹⁴¹ Boyle, 'Women and Crime in Belfast', pp. 85, 134, 137.

‘several warnings’ to the effect that, ‘unless she went to work and conducted herself properly [they] would have to report her’, which would, they said, mean that her license would be revoked.⁹⁴² Because the problem of recidivist-thieves had gained national prominence following the ending of transportation, it is telling that the local evidence shows that female recidivists, like Curr, were cautioned on numerous occasions, before being arrested.

The third clue, that Dundee’s female recidivists were not subjected to disproportionate levels of policing, is associated with the tendency of the city’s magistrates to dismiss repeat offenders without sanction. Then as now, rank-and-file officers considered the probability that a charge would result in a successful prosecution before bringing a defendant to court.⁹⁴³ There will be a discussion of the culture of judicial decision-making shortly. For the moment it is relevant to assess the substantial body of data that indicates that it is unlikely that the police allocated a disproportionate level of their limited resources to the policing of underclass women when it was uncertain that their efforts would lead to a conviction.

⁹⁴² *DA*, 20 June 1876: Curr had been committed to Cupar Fife Prison in 1870 to serve seven years’ penal servitude. She was released in 1875, on licence until the term of the sentence passed upon her had expired. A similar case, where a female recidivist released under-license and was again given warnings is: *WN*, 10 July 1880. On the use of licenses elsewhere see Jones, *Crime in Nineteenth-Century Wales*, pp. 198-199, Macilwee, *The Liverpool Underworld*, p. 42.

⁹⁴³ Johnson, ‘Getting the Facts Straight’, p. 29.

5.4 c) Magistrates Deterring Zealous Policing⁹⁴⁴

Dundee's magistrates were entrusted to execute the law effectively and to acquit defendants when there was insufficient evidence to support the charge against them. Inevitably there were differences of opinion between bailies and the police on what constituted an offence, because whether there had been a breach of the peace, importuning, or public drunkenness, involved a discretionary judgment. We see this in the case against Mrs Thomson and Mrs Menzies (non-recidivists), brought up for riotous behaviour late at night. The constable stated that they were drunk and quarrelling. The bailie dismissed the charge. It seems that he believed the women's account that they were 'only making fun ... by throwing "tatties" at one another' after Mrs Menzies had had four rotten teeth drawn.⁹⁴⁵ The courtroom adjudication would presumably be both frustrating and embarrassing to the constable who brought the women before the magistrate, since sources from elsewhere show that when a charge was dismissed the arresting officer considered it as a reflection upon himself and the Force.⁹⁴⁶ Given that, as we have seen, Godfrey finds that drunken women often escaped attention because to arrest them invited ridicule, we can speculate that the press ridicule that sometimes resulted when Robert was over zealous encouraged him and his colleagues to exercise their discretion leniently.⁹⁴⁷ We can be sure, however,

⁹⁴⁴ I would like to thank Clive Emsley who encouraged me to pursue my interest in Dundee's magistracy despite the limited secondary sources, and for his overview of the relevant crime histories.

⁹⁴⁵ *WN*, 17 October 1885.

⁹⁴⁶ Godfrey, 'Changing Prosecution Practices', p.179. Similarly, John Pitt Taylor, *A Treatise on the Law of Evidence As Administered in England and Ireland with Illustrations from Scotch, Indian, American and Other Foreign Laws*, (1858) cited in Smith, *Oxford History of Laws*, p. 97.

⁹⁴⁷ Godfrey cited by Morrison, 'Ordering Disorderly Women', p. 225. *PJ*, 18 September 1920.

that a powerful deterrent against officers' stringent interpretation of the law came from their chief constable.

Dewar's proud announcement, in 1894, that out of 1615 persons arrested for drunkenness none had been dismissed by the magistrates as not guilty, shows that he was concerned that the Constabulary should appear efficient in his annual police report.⁹⁴⁸ To this end, as Godfrey found in Crewe, the police probably advanced stronger cases to increase the chances of achieving a conviction.⁹⁴⁹ Crucially, the local evidence also leads us to suspect that the bailies discouraged Robert from taking a heavy-handed approach with the prostitute-recidivists he met on his rounds.

Walkowitz alerts us to the high degree of co-operation between the police and judiciary in the enforcement of the criminal law against prostitutes. But contrary to the 'staged dramas' at the police court that Walkowitz predicts, Dundee's magistrates frequently threw out charges of importuning, presumably because there was insufficient evidence to justify a conviction.⁹⁵⁰ For example, as Table 5.1 shows, in 1904 out of the 135 charges brought by the police, only seventy-seven women were convicted, and the situation was similar the previous year. The Dundonian judges were not alone in their inclination to be lenient. Officers in the Met, Petrow observes

⁹⁴⁸ The annual chief constable reports refer to the cases the police discharged cases on 'account of the evidence ... being insufficient to warrant their being brought to trial before a Magistrate'. For example, in 1894, 6304 cases were brought before the Magistrates, 652 were discharged by the police due to there being insufficient evidence: *PoR*, 1894 p. 5, similarly *PoR*, 1878 p. 5. The same was true in Scotland generally: *RHO*, 12,856. Laite argues that magistrates throughout London's Police Court districts heavily influenced the way that prostitution was policed in the period: Laite, 'Prostitution in London, 1885–1930', p. 25.

⁹⁴⁹ Godfrey, 'Changing Prosecution Practices', p.179.

⁹⁵⁰ Walkowitz, 'Review of 'Poverty and Prostitution'', p. 146 but elsewhere she identifies that the police were reluctant agents of moral reform: *Prostitution and Victorian Society*, p. 42.

of this period, were deterred from arresting prostitutes by the knowledge that ‘capricious’ magistrates would not convict on their witness testimony alone, and for similar reasons they were equally discriminating in deciding whether to arrest drunks.⁹⁵¹

In Dundee, the courts’ leniency to recidivists was a source of frustration for the city’s chief constables. They frequently complained that if magistrates and sheriffs imposed stronger sentences on habitual offenders then the crime figures would be ‘materially decreased’.⁹⁵² But while the chief constables favoured stricter sentencing than the bailies, they did not promote the differential regulation of male and female habitual offenders that would explain the overrepresentation of women on the recidivism records. As the rest of this chapter will highlight, there is even less evidence to suggest that the courts displayed a bias against women, although, as with the evaluation of policing, we will consider sources that both support and undermine the sociologist’s double deviance theory.

⁹⁵¹ Petrow, *Policing Morals*, pp. 220, 136, Bright, ‘Loafers Are Not Going to Subsist Upon Public Credulence’, p. 37, George Behlmer, ‘Summary Justice and Working-Class Marriage in England, 1870–1940’, *Law and History Review*, 12 (1994), p. 236. Equally in Edinburgh and Govan the offence of importuning was not treated severely by the magistrates: *WN*, 13 October 1872, *RHO*, 8976, 8904. Davis in her study of the Met police explains that when the police courts were established they were not expected to function in tandem with the police. Separation was considered essential to ensure that the magistrates were not as unpopular as the police: ‘A Poor Man’s System of Justice’, p. 315.

⁹⁵² *PoR*, 1891 p. 5, 1893, p. 6, 1915 p. 14.

Table 5.6: Apprehensions and Convictions for Prostitution in Dundee 1878 – 1904

Year	Apprehended by the police	Convicted by the magistrates
1878	177	151
1879	149	132
1880	156	146
1881	164	137
1882	124	96
1883	11	11
1884	36	35
1885	20	19
1886	38	36
1887	62	58
1888	14	12
1889	3	3
1890	23	22
1891	95	94
1892	57	57
1893	335	324
1894	283	280
1895	125	122
1896	132	127
1897	106	101
1898	124	120
1899	133	111
1900	140	134
1901	153	133
1902	120	99
1903	162	125
1904	135	77
Average apprehensions 118		

From: Lennox, Table 103.

5.5 Female Recidivists in Dundee: The Absence of Judicial Discrimination

The feminist standpoint, discussed in Chapter 4, anticipates that injustices in the court system could provide a key explanation for the disproportionately high re-conviction rate for women in Dundee. The investigation of the city's judiciary highlights that

there was far more to the experience of local female recidivists than is provided for by the feminist precepts of prejudice and abuse. In line with Keith Smith's recent study, we find evidence that Dundee's judges were concerned to identify relevant facts and to expose untruths, and thereby strike a balance between protecting defendants from wrongful convictions and ensure that criminals did not escape conviction and punishment. Demonstrating concerns remarkably similar to today's Scottish commissioners, they were also disinclined to send recidivist women—who did not pose a risk of harm to the public—to prison, when it was apparent that ratepayers' money could be better spent.⁹⁵³

Dundee's Sheriff Campbell Smith, recalling that when Alice Rooney, the habitually violent drunkard, was last before him he had sent her to prison for abusing her child, told her that 'he was glad to hear it was still alive, [and] getting through the winter partly in the Poorhouse and partly in prison'.⁹⁵⁴ There was also a touch of weasel about the Sheriff when he told another defendant that he did not see 'what use the accused's life could be'.⁹⁵⁵ As the latter was a male thief, and the archives reveal that it was male defendants who were usually the target of judicial invective, it would be inappropriate to interpret Campbell Smith's sarcasm towards Rooney as evidence of a misogynist attitude.⁹⁵⁶ More importantly, although characterizing Rooney as a 'thorough scold', the Sheriff's sentence was not unduly harsh.⁹⁵⁷

⁹⁵³ Smith, *Oxford History of Laws*, pp. 83-115, *Report of the Commission on Women Offenders* (Scotland, 2012), p. 3.

⁹⁵⁴ *WN*, 22 March 1890.

⁹⁵⁵ *WN*, 14 August 1909.

⁹⁵⁶ For example *WN*, 4 July 1885, *DA*, 12 June 1886, 1 May 1886. Incidentally, when male offenders departed from the gentlemanly behaviour they were described by the press as 'brute' and 'scapegrace of a husband.' Since feminist scholars highlight the frequency with which female offenders are presented as breaching the codes of their sex so it is significant that headlines refer to the city's 'unnatural son[s]', and

The kind of gender-based, social-control policies that feminist scholarship has led us to expect in the archives are consistently absent from Dundee's trial records. This is particularly clear when examining the treatment of the women who had departed most dramatically from the conventional female role. The defendant who bit a piece out of her neighbour's ear, for example, was not lectured on the qualities expected of her sex.⁹⁵⁸ And the mother who swung her eleven-month-old child around by the legs, using her as a weapon with which to hit her neighbour, received no diatribe on maternal qualities. The procurator fiscal, without sarcasm, took the pragmatic view that fortunately the child had not been seriously injured.⁹⁵⁹ Similarly, the recidivist who, according to the press, 'conducted herself in a haughty and insolent manner', and, as she was leaving the bar, cursed the magistrate, did not suffer ill effects for her impertinence, which Catherine Lee's findings suggest would have been a predictable

'[u]nmanly' offenders': *WN*, 4 July 1885, 12 November 1887. By perpetrating unprovoked violence these men had breached the masculine code that expected them to protect women. This is in keeping with Zedner's view that notions of both masculinity and femininity influenced how the Victorian offender was perceived: *Women, Crime and Custody*, p. 2. Although Hughes argues that attitudes against violent husbands did not harden in Scotland as much as they did in England: 'The 'Non-Criminal' Class', pp. 31-40.

⁹⁵⁷ *WN*, 22 March 1890, similarly 19 March 1887, *DA*, 22 April 1886. The cases supports Godfrey et al's finding, in the English context, that the seriousness of the violence, not gender, determined sentencing and this point will be developed later: 'Explaining Gendered Sentencing Patterns', p. 717.

⁹⁵⁸ *DA*, 4 April 1876. As Home found in Canada, lectures were routinely given from the bench to reprove, improve or humiliate the defendant. It seems that those judges who refrained from giving a sermon were the most popular with defendants: 'Denison's Law', p. 178.

⁹⁵⁹ *WN*, 5 March 1887. Smart argues that Lombroso maintained that the lack of maternal instinct was a definite sign of criminality: 'Criminological Theory', p. 93. Granted it is impossible to be sure that the judges did not pass comment on these cases, but, given that such statements would have been newsworthy, the absence of condemnation in the press reports would appear to reflect their omission.

outcome had she been tried in Kent.⁹⁶⁰ By assessing the treatment of Dundee's female inebriates, thieves and prostitutes, in turn, we shall see that such a response would have been out of place here.

5.5 a) Sentencing Inebriated Female Recidivists

The local evidence stands in sharp relief to the feminist studies that highlight the impact of the double deviance premise on the treatment of the female drunkard. The identical sanctioning of the drunken couples, brought before the police and sheriff courts, for quarrelling in the street in the early hours, for example, indicates that disorderly women were not deemed to be more maladjusted than disorderly men.⁹⁶¹ As for hardened drinkers, in the same sitting, in 1866, Bailie Hay awarded the habitual drunkards Helen Ramsay or Hill (with 142 convictions) and Margaret Gow (with 145 convictions) the same sentence as Thomas Hally and Nicholas Lamb – recidivists who were less well known.⁹⁶² And, in 1872, on her fifty-sixth appearance before the police court, Margaret Morrison was sentenced to thirty days imprisonment without the option of a fine.⁹⁶³ This was the same sentence awarded to Stewart McSherry, a commensurate 'old offender', convicted of similarly drunken behaviour a month before.⁹⁶⁴ Another example pointing to an absence of cultural constructions informing Dundee's judiciary is *The People's Journal* report of 1907. Female

⁹⁶⁰ *WN*, 15 September 1888, similarly 26 September 1885, 21 February 1880, 29 August 1885. In Kent rude women were punished for their lack of respect to the court: Lee, 'Regulating Prostitution in Nineteenth-Century Kent', p. 16.

⁹⁶¹ For an example of the police court: *WN*, 6 March 1875, for the sheriff court: *C*, 22 March 1865.

⁹⁶² *DA*, 11 January 1866.

⁹⁶³ *WN*, 19 October 1872.

⁹⁶⁴ *WN*, 21 September 1872. Also, an absence of discrimination is evidenced by the fact that the press published the trial outcomes under the gender-neutral press headline, 'A BATCH OF INCORRIGIBLES': *DA*, 5 June 1866.

drunkards—‘seasoned toppers’—with scores of previous convictions, the paper described, ‘went through the trying ordeal of being lectured’ by the magistrate, but each left the court with simply an admonishment.⁹⁶⁵ It is also significant that no evidence has been located of the judiciary’s sexist application of the inebriate legislation.

Smith notes that in the period judges usually made the criminal law, and legislative intervention was largely a consolidation exercise.⁹⁶⁶ It is therefore telling that Chief Constable Dewar and his Scottish counterparts complained to the government, in 1890, that the ‘want of a plan’ in dealing with habitual offenders was ‘most unsatisfactory’; as this not only captures their frustration with the lack of central direction on the definition and treatment of recidivism, but also reveals, by implication, the absence of misogynist local court directives.⁹⁶⁷ In fact, the judiciary was clearly unimpressed with statutes enacted to deal with habitual drunks. The trial reports show that Dundee’s judges, in common with colleagues across Britain and North America, were reluctant to apply the inebriate acts probably because they considered the legislation incompatible with their deep-seated faith in proportionate sentencing.⁹⁶⁸ (It will be remembered from Chapter 1 that there were strong similarities in British and North American inebriety legislation). As was the way of

⁹⁶⁵ *PJ*, 15 June 1907.

⁹⁶⁶ Smith, *Oxford History of Laws*, pp. 12-13. Similarly, King finds that in England, in an earlier era, informal decisions made by the courts were more important in shaping criminal justice policy than legislative change. Examples include the almost complete abandonment of the public punishment of women and the rise of imprisonment as the dominant sentencing option in property offences: *Crime and Law in England 1750–1850*, pp. 4, 12.

⁹⁶⁷ *C*, 16 September 1890.

⁹⁶⁸ For more see Victor Bailey, ed, *Policing and Punishment in Nineteenth-Century Britain* (London, 1981), p. 231. A prison sentence was 1-3 months – in the reformatories detention was for a minimum of 12 months.

magistrates in Crewe and Canadian Halifax, Dundee's magistrates put off sentencing drunks, *of either sex*, to long terms of imprisonment until they had amassed scores of convictions.⁹⁶⁹

As will be emphasized throughout the remainder of this chapter, by the 1880s there was national agreement amongst judicial and social commentators that sending habitual drunkards to prison, for repeated short periods, did not remedy their condition and, at the end of the century, state inebriate reformatories were established as an alternative for those whose lives had become entrenched in the criminal justice system. It is by evaluating the records that chronicle the use of inebriate reformatories that we gain further insights into Dundee's gendered recidivism statistics. This is because the inebriate reformatories—where the black-listed on the habitual-drunkards register were sent when they failed to reform—were, like the city's inebriate register, overwhelmingly dominated by women.⁹⁷⁰

⁹⁶⁹ D'Cruze, Godfrey and Cox, "The Most Troublesome Women in Crewe", pp. 18, 19, Fingard, *The Dark Side of Life*, p. 55. The local evidence includes: *C*, 5 January 1893, *DA*, 5 June 1866 (2 habitual drunkards, 2 women and 1 man, all receive 7s /7 days from the bailie). Similar evidence in Glasgow: *RHO*, 12,784, 394, *WN*, 27 August 1870. It is also useful to point out that a Pennsylvanian observer noted, in 1918, that women were well known to magistrates before they were committed to prisons and reformatories, a commentator thought the authorities' reluctance reflected their frustration with sexist and petty laws: citing Bryant, Belknap, "Offending Women", pp. 1070-1072. Similarly, King finds that early-nineteenth century Old Bailey judges were deeply ambivalent about some of the sentencing options available to them: *Crime and Law in England 1750–1850*, pp. 5-6.

⁹⁷⁰ The habitual drunkards register, it will be remembered, was established under the provisions of The Licensing (Scotland) Act 1903, for the purposes of preventing pubs selling drink to individuals with a record of drink-related crime. Similar habitual drunkards' registers were established all over Britain under the provisions of the Inebriate Act 1898 and Licensing Act 1902 which, like the Scottish version, saw persistent drunks sent to inebriate reformatories.

As we saw in previous chapters, for many scholars the inebriate reformatories were an integral aspect of the social control of Edwardian working-class women who did not conform to cultural conventions. They argue that the reformatories are foregrounded, along with the criminal justice system, within Foucault's 'interlocking carceral network'.⁹⁷¹ And yet, as we shall see now, their development makes it plain that they were not the progeny of sexist zealots or 'total' institutions, but rather a genuine attempt to cure alcoholics of both sexes.

The problems associated with habitual drunkenness had perplexed the medical profession, the courts and social reformers long before the start of our period. The need for legislation was raised, for example, in 1855, by Scottish Lunacy Commissioners who, like their British, American and Australian successors, recognised that drunkards needed to be kept from drink for a considerable time in order to cure their addiction. The British campaign for a reformatory experiment began in earnest in 1875 (and lasted until 1921). Around that time members of the Society for the Study of Inebriety held countless conferences and made numerous trips abroad to research how long detention needed to be in order for the alcoholic's drinking habit to be broken.⁹⁷² The evidence shows that the original British plan was

⁹⁷¹ Dobash and McLaughlin, 'The Punishment of Women', pp. 81, 88. Foucault thought there was scarcely a difference between rehabilitation institutions and prisons: *Discipline and Punish*. Also 'The Carceral', in Muncie, McLaughlin, and Langan, eds, *Criminological Perspectives*, pp. 392, 394, Colin Sumner, 'Foucault, Gender and the Censure of Deviance', in Loraine Gelsthorpe and Allison Morris, eds, *Feminist Perspectives in Criminology* (Milton Keynes, 1990), pp. 26-40.

⁹⁷² For a detailed history see W T Gairdner, 'Legislation for Habitual Drunkards', *BMJ*, 1802 (1877), 464-5. There were colonial and international congresses on inebriety held to discuss the legislation necessary to treat habitual drunkards, for example, Unknown author, 'Colonial Legislation for the Habitual Drunkard', *BMJ*, 1333 (1886), p. 115. Also see Hunt, Mellor and Turner, 'Wretched, Hatless and Miserably Clad', pp. 244, 259. The Australian situation, which had much in common with Britain's problem of habitual drunkards and is discussed by Galton, "Once a

for the legislation to remain in place for ten years, and for patients, both rich and poor, to admit themselves voluntarily to the teetotal retreats. Admittance only became mandatory in the wake of lessons learned from the first trials. Similarly, it was only when it was clear that the destitute were excluded from the retreats, by their inability to pay the fees, that the government bowed to pressure to fund state reformatories, thereby facilitating the treatment of impoverished women in the early years of the new century.⁹⁷³ As a relevant aside, sections of the judiciary had campaigned against the establishment of inebriate reformatories, perceiving them as an infringement of civil liberties.

The archives undermine Dobash and McLaughlin's suspicion that the Greenock Inebriate Reformatory, where Dundee's inebriates were sent, was part of some 'hidden agenda' against prostitutes, since it had previously been used as a House of Refuge for Fallen Women.⁹⁷⁴ What the local archives actually expose is that Dundee's judges had called for a home for inebriates as early as 1866, not to promote gender-based social-control policies but to address the injustice of a legal system that incarcerated people, they said, who '*were not criminals*' (my italics).⁹⁷⁵ Their

Drunkard Always a Drunkard', p. 43. He also covers the wider debates on the treatment of recidivism: pp. 42, 44, 46, 49, 53.

⁹⁷³ Stephen S Alford, 'A Paper Read Before the Social Science Association, on the Habitual Drunkards Act of 1879, With an Account of a Visit to the American Inebriate Homes', (London, 1880), pp. 4, 6. Unknown, 'Reclamation of Women Drunkards: The Experience of the Past Year', *BMJ*, 1812 (1895), p. 726. Note too that there was discussion of male admission: Unknown, 'Homes for Male Inebriates', *BMJ*, 1243 (1884), p. 115.

⁹⁷⁴ Dobash, and McLaughlin, 'The Punishment of Women', p. 84. The idea is reasonable given that the records of Farmfield Reformatory (London) show that not all the prostitutes admitted were inebriates and so what they were being cured of was their streetwalking: Hunt, Mellor and Turner, 'Wretched, Hatless and Miserably Clad', p. 266.

⁹⁷⁵ *C*, 1 May 1866. This was the view of the Gladstone Committee in 1895: Rawlings, *Crime and Power*, pp. 108-9. North American judges also believed it unjust to punish

emphasis on the need for the punishment to match the crime echoes Smith's conclusion that the English judiciary regarded the majority of habitual offenders (male and female) as trivial offenders.⁹⁷⁶ And rather than finding evidence of ideological constructions, the archives record that the Greenock Reformatory was finally established in an ex-prostitutes refuge in consequence of the effective re-use of public space at a time when financial constraints prohibited new building works.⁹⁷⁷ We repeatedly find evidence that the criminal justice authorities were working under financial constraints and this impacted on recidivists' experience of the law.

Thirty-seven-year-old Ann McDaniel was sent to the Greenock Reformatory for eighteen months in 1906. Sheriff Campbell Smith explained, without sarcasm, that he made the order in 'kindness', because 'she was not such an utter blockhead as a number of the persons who got drunk every day.'⁹⁷⁸ This resonates with the interpretation, to be repeated later, that there were sincere motives behind the long-term incarceration of recidivists. A reformatory stay was expensive—the Dundee Town Council was only willing to fund ten places annually for habitual drunkards—and only those who were deemed likely to benefit were sent.⁹⁷⁹ Those considered hopelessly incorrigible were left to cycle between the prison and the poorhouse.

'relatively harmless persons more severely than so-called real criminals': Belknap, "'Offending Women"', p. 1072, similarly Howell, *Geographies of Regulation*, p. 139.

⁹⁷⁶ He refers to peccadilloes: Smith, *Oxford History of Laws*, pp. 170, 174-175.

⁹⁷⁷ What is more, the Scottish Secretary referred to the same practical constraints preventing the building of accommodation for the treatment of habitual offenders. Because of the lack of buildings it was suggested that parts of poorhouses could be used as refuges: *S'man*, 20 January 1914, and Unknown, 'Drink and Drunkenness in London by a London Police Magistrate', p. 324.

⁹⁷⁸ *WN*, 17 March 1906. Incidentally she is one of the women whose photograph is preserved in the city's inebriate register, see Chapter 4 Images 4.3.

⁹⁷⁹ *PJ*, 15 June 1907 and this concurs with the earlier finding that resources limited on how female drunkards were dealt with by the local authorities. Many local authorities

The Council's concern about the cost, as well as the reluctance of the magistrates to make disproportionate committals, presumably explains why the number of Dundonian women sent to Greenock was in single figures and why very few were committed for the maximum period of three years.⁹⁸⁰ Equally the records show that, in the main, English and Scottish reformatories were under-utilized.⁹⁸¹ And although amendments were made to the inebriate law—that meant that when an offender had a certain number of drunkenness convictions magistrates had no choice, in law, other than to send them to an inebriate reformatory—admissions remained infrequent. Between 1908 and 1923, as Table 5.2 shows, no more than thirty-four women were committed annually to the Scottish State Inebriate Reformatory and Greenock Certified Inebriate Reformatory.

The judiciary's reluctance to use reformatories and the fact that the accumulated evidence does not highlight the differential sanctioning of male and female drunks makes it very difficult to link the bailies with the overrepresentation of women on Dundee's inebriate blacklist. By trawling the archives further, as the next section will

refused to utilize the reformatories on the basis of cost: Hunt, Mellor and Turner, 'Wretched, Hatless and Miserably Clad', pp. 244, 259. The conflict over paying for policing, poor law and public health is also discussed in Chantal Stebbings *The Victorian Taxpayer and The Law: A Study in Constitutional Conflict* (Cambridge, 2009).

⁹⁸⁰ In 1906 4 men and 8 women were sent from periods ranging from 16 months to 2 years. In 1907 one woman was sent for three years, in 1908 two women were committed by the sheriff: *PoR*, 1908 p. 13.

⁹⁸¹ Over-arching statements on the inebriate reformatories are, however, dangerous because in the period the evidence shows that nationally there was both an under-use and misuse by the courts of their committal powers, see Smith, *Oxford History of Laws*, p. 175.

show, we find more sources challenging the idea that criminal justice practitioners sought to keep the most hardened recidivist women off the streets.

Table 5.7: The Number of Persons Nationally sent to Scotland’s State Inebriate Reformatory 1908–1923

Year	Numbers
1908	18
1909	15
1910	13
1911	26
1912	34
1913	24
1914	20
1915	22
1916	22
1917	7
1918	2
1919	2
1920	7
1921	1
1922	1
1923	1

From: *Judicial Statistics Scotland*, 1917 and 1923.

5.5 b) Sentencing Thieves of Habit and Repute

In 1871, Mary MacDonald was sentenced to a mere fifteen days imprisonment at Dundee’s Police Court, notwithstanding that this well-known thief had a criminal career stretching back to 1836, and in the intervening years had been sentenced to seven-years’ transportation, and ten years’ penal servitude, again for theft.⁹⁸² Because Margaret Campbell or Greig, another notorious thief, was similarly let off by the Glaswegian authorities—on three occasions between 1901 and 1915—we can see that

⁹⁸² JC26/1873/1, JC26/1877/4, C, 11 November 1888.

the magistrate in the MacDonald case was not uniquely lenient (Appendix 5.3).⁹⁸³ And Catherine Crow or Coleman's trial, at Dundee's Sheriff Court, provides a corresponding picture. Coleman was sentenced to four days' imprisonment for stealing 'a purse, 17s 4d in money, five railway tickets and a brass ring', from a clerk in circumstances strongly suggestive of prostitution. As she had several times previously been convicted of theft, 'under similar circumstances', she might reasonably have expected more, and in fact the sheriff warned her that, unless she reformed, she would find herself in penal servitude.⁹⁸⁴ The trials concerning local prostitutes frequently expose weaknesses in the historiography of female crime.

The Dundonian evidence does not support D'Cruze and Jackson's view that when prostitutes committed theft the Victorian criminal justice system was more ready to assume guilt.⁹⁸⁵ A culture of judicial leniency, apparent in the Coleman hearing, is also apparent in the trial of Elizabeth Anderson. The judge dismissed the charge of theft against her as not proven, despite the fact that Anderson had been seen drinking and walking arm-in-arm with her accuser and, deciphering the press report, when he rejected her advances had 'dived her hand' into his trouser pocket and stolen 14s.⁹⁸⁶ Indeed, prostitute-larcenists do not appear to have been regarded by local magistrates as any greater nuisance than the chaste thieves who stole from washing lines and washhouses.⁹⁸⁷ Rather it seems that, as was discussed in Chapter 3, judges often had little sympathy for plaintiffs who had lost their possessions in liaisons with

⁹⁸³ SC45/37/61.

⁹⁸⁴ *WN*, 13 May 1893.

⁹⁸⁵ D'Cruze and Jackson, *Women, Crime and Justice in England*, pp. 66, 49.

⁹⁸⁶ *WN*, 19 July 1879.

⁹⁸⁷ For comparative cases of prostitute and non-prostitute thieves see, for example, *WN*, 19 March 1870, 27 October 1866.

prostitutes; even when the proceedings concerned robbery.⁹⁸⁸ This finding, taken together with the evidence discussed above, that magistrates frequently discharged women the police had charged with soliciting, indicates that Dundee's legal system was not punishing prostitutes unfairly.

So far we have been unable to give a satisfactory account that *wholly* explains the disproportion of prostitutes in the recidivism statistics, nor indeed for the dominance of female drunkards. Having said that, so far we have only explored the possibility that the stricter sanctioning of women explains their overrepresentation in the records. The following section draws our attention to the possibility that the gender imbalance in the recidivism records may, in part, be explained by the authorities' greater readiness to impose protective sanctions on women.

Protective custody is a familiar theme in feminist and Foucauldian texts, but their interpretations are not advanced here.⁹⁸⁹ Instead we shall highlight the sincerity of the criminal justice practitioners in trying to help women effect behavioural change and thereby break free from their cycle of crime. And to this end counterweight evidence, to that usually proffered in histories of Victorian and Edwardian criminology, will be introduced.

⁹⁸⁸ JC26/1870/64, see in Chapter 3 the discussion that men who went looking for a woman at the harbour were considered to deserve all they experienced there.

⁹⁸⁹ Dodge similarly finds Foucault's hypothesis 'deeply flawed', observing that it is 'limited to understanding the prison as a metaphor, not as a historical reality': *Whores and Thieves*, p. 22.

5.5 c) Punishment v Protective Custody: Interpreting the Evidence

The history of crime, as we saw in Chapter 4, is also the history of judgments about crime.⁹⁹⁰ In 1913 Dundee's judges and chief constables observed that prostitution threatened the 'moral and physical welfare' of pre-war society.⁹⁹¹ In 1914 a delegation of the city's magistrates and her chief constable, along with their counterparts from Glasgow, Edinburgh and Aberdeen, described the convicted prostitute as belonging to an 'even more dangerous class than the habitual offender'. Given that one of the purposes of this dissertation is to assess the impact of prison science on Dundee's criminal justice practitioners it is notable that the delegates did not use the language of the medico-psychological community to describe the prostitute as feeble-minded, nor did they call for the permanent incarceration of persistent offenders, as previous histories have led us to expect.⁹⁹² Nevertheless, the delegates sought to convince the Scottish Secretary that magistrates should be granted the power to compulsorily detain prostitute-recidivists for a maximum of three years.⁹⁹³ Does the delegates' demand capture prejudice that might explain why the typical hardened recidivist in the period was female?

Several studies show that it was commonly believed that prostitutes needed to be incarcerated for their own protection.⁹⁹⁴ Likewise, the Scottish delegates appear to

⁹⁹⁰ Nye, 'Crime in Modern Societies', p. 504.

⁹⁹¹ *S'man*, 1 July 1913.

⁹⁹² See Dodge, '*Whores and Thieves*', p. 93 and Chapter 4, Section 4.4 b) 'Such Women Will Deceive In Every Possible Way': The Female Offender in Victorian and Edwardian Literature.

⁹⁹³ *S'man*, 20 January 1914.

⁹⁹⁴ For example, Slater, 'Prostitutes and Popular History', p. 30, similarly Belknap, "'Offending Women'", pp. 1064-5, 1071. For a discussion of protectionism in eighteenth-century courts see King, *Crime and Law in England 1750-1850*, p. 191.

have considered prolonged detention as the only way to stabilise the lives of persistent re-offenders. A feminist reading, on the other hand, would interpret the magistrates' desire to keep prostitutes off the streets as misogynist social control policy.⁹⁹⁵

Supporters of Foucault's 'carceral archipelago' would declare, moreover, that this was thinly veiled humanitarianism and a 'subterfuge' disguising the consensus of the governing class to maintain social power.⁹⁹⁶

Feminist criminologists argue that women were vastly overrepresented in the 'semi-penal system' of reformatories and detention-centres until recent times, due to the long-term application of double standards. They point out that females were detained in institutions more readily than males for non-criminal behaviour (such as running away from home), because judges felt that they were doing their paternalistic duty by 'protecting' wayward young women. Clearly we are dealing with the perplexing historical problem of determining the purpose of philanthropy, analogous to that involving the inebriate reformatories that were discussed earlier.⁹⁹⁷ And just as the

⁹⁹⁵ See the position taken by Zedner in 'Women, Crime, and Penal Responses, p. 348, and Morrison in 'Ordering Disorderly Women'.

⁹⁹⁶ Smart, 'Criminological Theory', p. 98. Smith, *Oxford History of Laws*, p. 178.

⁹⁹⁷ Reformatories, like Sunday-school picnics, can be seen as devices for social control or sincere efforts to benefit the poor. Contemporary motives were complex which makes contradictory interpretations likely. The records, for example, from Mayhill Girls' Industrial School, Glasgow between 1914–16 and 1920–25, indicate that while some girls were detained to protect them from abuse, others were incarcerated because they were deemed to be at risk of prostitution: Littlewood and Mahood, 'Prostitutes, Magdalenes and Wayward Girls', p. 169. There is more evidence of double standards in North America than there is in Britain. In Chicago, between 1899 and 1909, one half of women, but only one fifth of young men, who came before the city's juvenile court, were institutionalized. And Pennsylvania's Muncy Act (1913) required that all female offenders, who had been convicted of an offence, punishable by more than one year imprisonment, to be given in addition a term in The Muncy State Industrial Home for Women – there was no male counterpart. The British equivalent of the Muncy Act, The Preventive Detention Act (1908), did not apply different sanctions to men and women. For a discussion of the incarceration of prostitutes see Chesney-Lind, 'Women and Crime', pp. 87-90, 93 and

feminist interpretation of the inebriate acts was challenged earlier, we shall see that the feminist interpretation of protective custody, as a tool to enforce gender ideology, also falls short.

For a number of reasons it is uncharitable to assume that the 1914 delegates were insincere when they told the Scottish Secretary that they wanted to deal with prostitutes ‘in a more merciful way than under the existing system’, and to disbelieve the magistrates’ desire to provide these women with the opportunity ‘to turn the corner of a new life’.⁹⁹⁸ They had, after all, called for the ‘more humane and reformatory treatment’ of ‘the habitual offenders of the dissipated and criminal classes’, when they had met in similar circumstances in 1905.⁹⁹⁹ Moreover, we might speculate that it is not unseemly that delegates should call for extended powers of detention when prostitute homes had had some success in helping streetwalkers start new lives.¹⁰⁰⁰ We have already seen that Dundee’s magistrates often treated prostitutes leniently, it is also relevant that, echoing attitudes identified amongst their counterparts in Calgary, some of Dundee’s magistrates expressed considerable sympathy for prostitutes.¹⁰⁰¹ It is certainly significant that, in the 1860s, they called for both streetwalkers and their clients to be punished in law, and that, as we know, in 1915, Chief Constable Ross of Edinburgh expressed the same view.¹⁰⁰²

Nicole Hahn Rafter, ‘Prisons for Women, 1790–1980’, *Crime and Justice*, 5 (1983), p. 149.

⁹⁹⁸ *S’mán*, 20 January 1914.

⁹⁹⁹ *PJ*, 8 April 1905.

¹⁰⁰⁰ An example is Charles Dickens’ home in Shepherd’s Bush London: Tomalin, *Charles Dickens*.

¹⁰⁰¹ Langdon, ‘Female Crime in Calgary 1914–1941’, p. 303.

¹⁰⁰² *C*, 12 July 1861, 5 July 1862, *S’mán*, 16 March 1915.

Masses of documents reveal that the Scottish authorities considered the existing methods of dealing with female recidivists unfit for purpose. Chief Constable Dewar captured the exasperation when he described prison as ‘worse than useless’ in reforming or deterring nuisance offenders.¹⁰⁰³ The Scots were not alone, as we saw in the discussion of the inebriate reformatory, for decades judges and social reformers up and down Britain had restated that short-term imprisonment only compounded recidivist behaviour and that more effective ways were needed to reduced re-offending rates. Today, it is similarly stressed that short-term prison sentences have little or no impact on Scotland’s women recidivists.¹⁰⁰⁴

In the age of Empire, when the state knew best, the delegates surely saw themselves as working both for the good of the individual and the good of society (in the same way that rehabilitation is promoted to transform the lives of the most hardened drug addicts today). They may also have considered helping the vulnerable prostitute as their Christian duty.¹⁰⁰⁵

On this point it would seem that a feminist would argue that the Victorian institutions should not be regarded as ‘good intentions gone wrong’, rather they should be perceived from the perspective of the woman confined within.¹⁰⁰⁶ In fact, this approach does not strengthen the feminist’s cause because, building on what we know

¹⁰⁰³ Dewar’s statement: *C*, 7 March 1893. Similarly Bailie Hay told 4 persistent recidivists (2 male, 2 female) that ‘there should be some other remedy for such confirmed cases as yours’ as their imprisonment was ‘useless’: *DA*, 11 January 1866, also *C*, 1 May 1866.

¹⁰⁰⁴ *Report of the Commission on Women Offenders* (Scotland, 2012), pp. 3, 19.

¹⁰⁰⁵ Elizabeth F Moulds, ‘Chivalry and Paternalism: Disparities of Treatment in the Criminal Justice System’, *The Western Political Quarterly*, 31 (1978), pp. 417, 419, 429, Jonathan Cape, *The Call to Seriousness: The Evangelical Impact on the Victorians* (London, 1976).

¹⁰⁰⁶ Morrison, ‘Ordering Disorderly Women’, pp. 22-23.

about the prostitutes' chaotic, brutalized and wretched lives, it is undoubtedly the case that, at times, some—especially sick prostitutes—preferred an institutionalized life to a life on the streets. The accumulated evidence shows that magistrates and the police knew this. Mary Gaffney, for example, who all the clues suggest was a prostitute, told the court that 'the jail's a very good refuge'.¹⁰⁰⁷ Indeed, many historians (feminists amongst them) agree with the contemporary view that prisons were often a place of refuge, functioning as quasi-welfare institutions, as well as the venue for punishment, *actively* utilised to their advantage by habitual drunkards and prostitutes at times of need.¹⁰⁰⁸ And we will return to this issue in Chapter 6.

The feminist view of protective custody as a tool of gender ideology also falls short because Dundee's magistrates deemed male offenders vulnerable too. Sheriff Campbell Smith, for example, in sentencing Edward Feenie to three months imprisonment, in 1900, for attempted housebreaking, said, 'he was a poor, miserable wretch, who would be better in prison than out of it until the better weather came in'. He duly imposed a sentence that ensured a roof over his head until the spring.¹⁰⁰⁹ Similarly, patriarchal power relations did not provide for the social control of drunken women under Chief Constable Neilans' watch. In 1936, he reported that for male and

¹⁰⁰⁷ *WN*, 10 July 1880, also 18 March 1865.

¹⁰⁰⁸ Morrison, *Crime and its Causes*, pp. 161-2, *C*, 29 December 1883, 4 September 1894. In Victorian Halifax offenders went to prison, in winter, 'at [their] own request': Phillips, 'Poverty, Unemployment, and the Administration of the Criminal Law', p. 142, Fingard, 'Jailbirds in Mid-Victorian Halifax', pp. 57, 70, 79, Graff, 'Crime and Punishment in the Nineteenth Century', p. 483, Luddy, *Prostitution and Irish Society*, p. 49, Macilwee, *The Liverpool Underworld* pp. 38, 55-56, Morrison, 'Ordering Disorderly Women', p. 243. From the evidence of the 'unbelievably poor physical and mental conditions' of many of the incarcerated women [offenders in North America] Belknap writes one cannot help but think that prison was a refuge: "'Offending Women'", p. 1075.

¹⁰⁰⁹ *PJ*, 13 January 1900.

female meths-drinkers, imprisonment was a ‘blessing in disguise’ – for without it they would die.¹⁰¹⁰

The argument pursued here is that the available local sources reveal that protective detention was a practical measure, motivated by a sincere desire to help offenders trapped in a cycle of crime. What is important for our purposes is that the cumulative evidence suggests that such a policy may have had a more pronounced impact on the city’s recidivist women than their male counterparts.

5.5 d) Protective Custody and the Recidivism Records

In light of the difficulties in finding comparable trial reports, we can only speculate that female recidivists were considered by the police and magistrates to be more needy of protective imprisonment than their male counterparts. Firstly, the culture of male chivalry in Victorian and Edwardian Dundee would have worked in this direction.¹⁰¹¹ Secondly, in all probability women offenders were, in reality, more vulnerable and in need of the state’s protection than men. Whilst the Salvation Army,

¹⁰¹⁰ *PoR*, 1936 p. 26.

¹⁰¹¹ Evidence of chivalry is seen in the fact that female cases were dealt with before male offenders on the court roll: *PoR*, 1917 p. 8. The evidence here does not, however, support the criminologists’ ‘chivalry thesis’ because that hypothesis posits that chivalrous treatment only extends to women who adhere to ‘proper’ gender roles. In Dundee female offenders received a lenient sentence for pragmatic reasons, not because of socially constructed notions about femininity. What is more, humanitarian motives are evident in the sanctions awarded to male offenders: *WN*, 12 August 1879, 12 April 1879, 6 February 1886, *DA*, 13 December 1866. The chivalry thesis is discussed at length in the literature: Chesney-Lind, ‘Women and Crime’, p. 90, Carolyn Strange, ‘Wounded Womanhood and Deadmen: Chivalry and the Trials of Clara Ford and Carrie Davies’, in Franca Iacovetta, and Marianna Valverde, eds, *Gender Conflicts New Essays in Women’s History* (Toronto, 1992), Dodge, ‘Whores and Thieves’, p. 111, Smart, ‘Criminological Theory’, pp. 97-98.

and other religious groups such as the St Vincent de Paul society, worked hard to assist women, the ruinous effects of the stigma of a previous conviction, we can be sure, made it very difficult for female ex-offenders to reintegrate into the slum communities. This is aptly demonstrated by Chief Constable Dewar's repeated demands for a home for discharged female prisoners:

At present many poor dissipated women on their discharge from prison have no one to take them by the hand and have scarcely any alternative but to resort to their old companionship, which, as a rule, soon leads them into mischief, which results in another appearance before the magistrates.¹⁰¹²

Today criminologists continue to argue that not enough is done to help recidivists break the cycle of crime,¹⁰¹³ and it is commonplace for researchers to observe linkages between criminality and the socioeconomic status of offenders.¹⁰¹⁴ A more detailed survey of the contemporary evidence will be provided in the next chapter, for now the essential point is that, in the period, male ex-prisoners benefited from greater official support mechanisms than female ex-prisoners, and (female) family-members and friends were also usually willing to provide them with food and shelter. In a city where women dominated the workforce, known female law-breakers, by contrast, were vilified by their own community. Of Margaret Gow, on her 251st court appearance, it was said that she seemed 'deserted by her own sex', and that it was 'they alone who [could] extend her effective help'.¹⁰¹⁵ The judge was probably

¹⁰¹² *PoR*, 1878 p. 8.

¹⁰¹³ For example, they emphasize that newly-released prisoners are given £47 to live on for the next three weeks until their benefits come through in which time they often re-offend: *Breaking the Cycle: Effective Punishment Rehabilitation and Sentencing of Offenders*, Presented to Parliament by the Lord Chancellor and Secretary of State for Justice by Command of Her Majesty, (December 2010), HMSO. Also *Report of the Commission on Women Offenders* (Scotland, 2012), pp. 4-5, 11.

¹⁰¹⁴ Boritch, *Fallen Women*, p. 11.

¹⁰¹⁵ *C*, 12 August 1879.

referring to Gow's isolation from the vital mutual aid arrangements that may have helped her break her continuous pattern of offending.¹⁰¹⁶

If magistrates were more inclined to pass protective sanctions when women were in the dock, and if the police used their powers of arrest and charge as a 'protective' device, to remove women from the streets, this may partly explain the disproportionate number of women recidivists in the statistics. Still, the policy of protective detention probably cannot account for the long-term gender imbalance in the recidivism records. It seems it was because female recidivists returned time and time again to court that Dundee's magistrates and chief constables became advocates of protective detention. In other words, it was the authorities' *response to* the problem of female recidivism and not a cause of it. Furthermore, only Margaret Gow's records allude to Robert's charitable motives when arresting recidivist women. Furthermore, only Margaret Gow's records allude to Robert's charitable motives when arresting recidivist women.

5.5 e) Margaret Gow a Case Study

Gow's case provides a vantage point from which to view a number of factors influencing the criminal justice response to female recidivists. Her criminal record allows us to develop our understanding of protective custody, it reminds us that the city's police and magistrates worked together, and examining Gow's treatment shows us that ideas about how to deal with offenders changed over time. Moreover, because the story of Dundee's most prevalent female recidivist is not a tale of repressive social

¹⁰¹⁶ This was because the offer of support presumably depended on the understanding that what was given would later be returned.

control, it provides another challenge to the place of double deviancy theory in the study of Victorian criminal justice.

By the 1870s Gow's well-established habit of having a drinking bout as soon as she was released from prison led Dundee's magistrates to develop a strategy of protective detention, implemented in co-operation with their colleagues in the Constabulary. According to a typical press report, 'the police ... when they found her helpless, took her quietly and carefully to "the Office" as the safest place for her', and thence to court – where she was sentenced to long terms of imprisonment. This was not, however, to implement a gender-based social control policy. The magistrates justified their sanctions, to Gow and the court, saying they did this 'not for the purpose of chastising her but to keep her ... [for the longest, legally permitted time] from the influence of drink'.¹⁰¹⁷

Some twenty years on from Margaret's first court appearances before the authorities, her persistent drunkenness had determined a change in her treatment. By the 1880s magistrates considered her imprisonment a waste of ratepayers' money and consequently when the police found her incapacitated in the street they no longer charged her. Rather, she was taken to the station for her own protection, and, when she had sobered up, she was returned to the poorhouse.¹⁰¹⁸ The authorities, incidentally, were following the advice of commentators like Dr John Moore, Medical

¹⁰¹⁷ Lamb 216(59), Lamb 304(8), *DA*, 11 January 1866, *WN*, 12 March 1870.

¹⁰¹⁸ *WN*, 12 December 1885, 13 May 1893, *C*, 13 December 1888, complaints about the cost in *C* 12 August 1879. It was common for policies to drunks to change over time. Goldsmith finds that in Glasgow prior to 1875 the majority of drunks were discharged by the police when they had sobered up. From 1875, however, the policy changed and they were brought before the magistrates: 'The Development of the City of Glasgow Police', p. 328.

Officer of County Antrim Jail (whether this was deliberate or coincidental is unknown). Moore argued that prison only made the reformation of habitual drunkards more unlikely and recommended the police simply detain drunks until they were sober.¹⁰¹⁹ It was women like Gow, who did not pose a risk to the public and who exemplified the failure of prison to cure alcoholism, that prompted the view that habitual drunkenness was a pathological disorder requiring bespoke treatment. These recidivists were behind the radical change in governmental policy that led to the inebriate reformatory experiment discussed earlier.¹⁰²⁰

Our final task is to conclude the investigation of Dundee's judiciary by showing that, in line with recent historical and contemporary research, local sanctioning outcomes could not be predicted according to the gender of the offender. In fact, contextual factors were the most significant determinant acting on the city's criminal justice practitioners.¹⁰²¹

5.5 f) Pragmatism and Not Prejudice

A Dundee Police Court correspondent, in 1872, considered forty days to be a 'smart sentence' for an offender who was habitually disorderly.¹⁰²² And, in 1905, according

¹⁰¹⁹ John Moore, 'Jail-Birds', *BMJ*, 897 (1878), p. 34 and 'Habitual Drunkards', 913 (1878), p. 942.

¹⁰²⁰ Morrison, *Crime and its Causes*, pp. 16-17, Smith, *Oxford History of Laws*, p. 12.

¹⁰²¹ This is also the verdict of Godfrey et al, 'Explaining Gendered Sentencing Patterns', p. 717, and Taylor, *Hooligans, Harlots and Hangmen*, p. 118. For sociologists see: Loraine Gelsthorpe and Nancy Loucks, 'Justice in the Making: Key Influences on Decision-making', in Karen Evans and Janet Jamieson, eds, *Gender and Crime: A Reader* (Milton Keynes, 2008), p. 122.

¹⁰²² *WN*, 19 October 1872. The court records indicate that Dundee's Bailie Brownlee routinely imposed harsher sanctions than his colleagues but there is not the opportunity to discuss this here.

to Scottish Prison Commissioners, 91 per cent of sentences did not exceed thirty days.¹⁰²³ It is significant therefore that, in 1875, Elizabeth Burke or Martin, who had twenty previous convictions, was sentenced to fifty days imprisonment, with the alternative of paying a £3 fine for cursing and swearing in Fish Street.¹⁰²⁴ By imposing a fine that Martin could not, presumably, pay the magistrate appears to have been determined that she should go to prison. And there are similar cases of women recidivists being awarded fines of £2 and £3, with the alternative of forty days imprisonment, for quarrelling, fighting and breaching the peace.¹⁰²⁵ It would be a mistake, however, to interpret these trial reports as evidence of gender-based sanctioning since, without the complete court transcripts, we do not know whether the violent robbery of sailors preceded the women's riotous conduct – as is implied by the press headline, the location of the offences and the women's previous convictions.¹⁰²⁶

What is more, it must be understood that judges, even when the case presented special circumstances, had limited sanctions available to them, since maximum and minimal penalties were established in law. The example of recidivist Catherine Shields or Jennings is pertinent because we will meet her again shortly. In April 1866 the Bailie said he wanted to award her more than 7 days, but this was the maximum penalty allowed in law for her drunkenness offence. Cases involving theft or violence, however, where the magistrate and procurator fiscal were of the opinion that higher penalties were necessary than could be inflicted at the police court, were remitted to

¹⁰²³ The average sentence being 17.3 days, *PR*, 1905, p. 212.

¹⁰²⁴ *WN*, 24 July 1875.

¹⁰²⁵ *WN*, 13 March 1880, 28 February 1888, *C*, 28 August 1886.

¹⁰²⁶ For importuning, in the 1870s, Dundee's recidivist-prostitutes usually received a sentence ranging from 20s/12 days to 40s/14 days: 'FEMALE STREET PESTS', *WN*, 15 December 1887.

the next level of the judicial system.¹⁰²⁷ Habit and repute thief Margaret Thomson or Scott was duly remitted on a charge of having stolen a flannel petticoat from a washing-line.¹⁰²⁸ On this basis it seems reasonable to assume that the prostitute-recidivist Elizabeth Burke or Martin was sentenced pragmatically.¹⁰²⁹

Again and again the trial reports show that Dundee's judges were pragmatic. Magistrates asked about the circumstances that brought a woman to court, and, in determining the case outcome, considered how her family would be maintained if she were sent to prison.¹⁰³⁰ Crucially, countless trial reports show that judicial pragmatism, rather than the 'sex effect', was the reason habitual offenders were sanctioned harshly since they underline that the context of the defendants' continued criminality, rather than their gender, determined the severity of the sentence (and previous convictions, of course, indicated a dubious reputation). For example, in 1876, Agnes Brown or Duncan was charged with stealing cotton from the factory where she worked. She pleaded guilty, said she was sorry, and, promising never to take anything that did not belong to her in future, asked for leniency. Her request failed and she was imprisoned for six months. This was not because she was a deviant woman: it was because, as the sheriff explained, she had three previous convictions

¹⁰²⁷ *DA*, 2 April 1886. Similarly *C*, 1 May 1866, *DA*, 30 June 1866, *S'man*, 16 March 1915. As discussed earlier, there were calls for an increase in magistrates' powers in order to keep prostitutes off the streets for longer than the existing legislation allowed: *S'man*, 20 January 1914. On the guidelines covering offences and sentencing standards on which magistrates were advised: Arnott, *The Scottish Criminal*, p. 3, Smith, *Oxford History of Laws*, p. 127.

¹⁰²⁸ *WN*, 13 May 1871.

¹⁰²⁹ Evidence elsewhere appears to support this finding. For example, Liverpool's Magistrate Clarke Aspinall was being pragmatic when he sentenced drunken women to eight days imprisonment, rather than the usual seven days, in order that their release would not fall at the weekend when the temptation of drink was at its greatest: Macilwee, *The Liverpool Underworld*, p. 107.

¹⁰³⁰ The evidence is discussed in the final section.

for theft, and her last offence had been committed just days after she had been released from prison for serving forty days.¹⁰³¹ In the same vein, to disorderly-recidivist Margaret Cockbourn or Masterson, the Bailie said ‘he had no option but to give 60 days, without the option of a fine’, since she had previously been awarded fines from 10s upwards and served twenty, thirty, and forty days without fines.¹⁰³²

Judicial pragmatism explains both why, as we have seen, Margaret Gow received long sentences and why, by the 1880s, the authorities did not imprison her. Judicial pragmatism also explains why other recidivists were treated leniently. In August 1870, the press reported that Margaret King or Samson, of Fish Street, had appeared for the seventy-sixth time for breaching the peace, ‘but as she had kept out of trouble since February the Magistrate thought that she was improving, and dismissed her’. Similarly, in the same sitting, on her sixty-sixth appearance for disorder, Catherine Shields or Jennings—who we met above—was given the chance to behave better because, ‘she had kept out of jail for four months, and [had] promised [the court] not to come back.’¹⁰³³ Research has shown that magistrates used the same type of justification when dealing leniently with offenders throughout Britain and North America.¹⁰³⁴ Also apparently in keeping with their counterparts, Dundee’s judges, when at a loss as to what else to try with recidivists, passed pragmatic sanctions as an experiment. A lenient sentence, it was hoped, might encourage a change of behaviour

¹⁰³¹ *DA*, 19 December 1876.

¹⁰³² *WN*, 31 July 1880. Also SC45/37/61 1st offence 29 Jan 1902, the defendant was admonished when back in court 2 May 1903 and when returned again in June 1903 she was sentenced strongly.

¹⁰³³ *WN*, 27 August 1870, *DA*, 2 April 1886, 18 October 1872. Men too were dismissed if they promised to reform: *WN*, 22 March 1875.

¹⁰³⁴ Craven, ‘Law and Ideology’, p. 283, Bright, ‘Loafers Are Not Going to Subsist Upon Public Credulence’, pp. 52, 56, Fingard, *The Dark Side of Life*, pp. 31, 33, 123. There was similar pragmatism in women’s trials in eighteenth-century courts: King, *Crime and Law in England 1750–1850*, p. 192.

and thereby break their cycle of re-offending.¹⁰³⁵ By pursuing this policy local magistrates embraced the penal culture of Scotland's Prison Commissioners who had been tasked, by the government, with finding a more cost-effective solution to the problem of offenders cycling between the prison and the poorhouse.¹⁰³⁶

At the end of the nineteenth century prison commissioners encouraged Scottish magistrates to keep serial recidivists out of gaol. But this was just one of the demands magistrates had to balance when reaching their verdicts. We have seen that the chief constables—concerned about the crime statistics—called for stricter sentencing. In the other direction, as a reading of the newspaper letters' columns in Dundee, as elsewhere, testifies, ratepayers were outraged that hundreds of pounds' worth of prison 'hospitality' was spent on habitual recidivists without any apparent benefit.¹⁰³⁷ The reason drunkards and prostitutes, who promised to leave town, were discharged from the bar with nothing more than an admonition was, it seems, because the result was a more orderly city without burdening the rates.¹⁰³⁸

In the sixty-year period of the research the evidence shows that Dundee's magistrates were frequently reluctant to prosecute persistent petty offenders. Their experience on

¹⁰³⁵ *WN*, 24 July 1880, 31 July 1880, 27 August 1870, and *C*, 21 October 1882, 16 February 1896. Also Unknown, 'Drink and Drunkenness in London by a London Police Magistrate', pp. 318-326. Parry, *The Law and the Poor*, p. 226.

¹⁰³⁶ Smitt, 'Colonel A B McHardy', pp. 43, 50.

¹⁰³⁷ For example *C*, 22 September 1897. For a discussion elsewhere: Craven, 'Law and Ideology', pp. 270-1, Jo Aitken, 'The Horrors of Matrimony among the Masses': Feminist Representations of Wife-Beating in England and Australia, 1870-1914', *Journal of Women's History*, 19 (2007), p. 111.

¹⁰³⁸ Cost was an ongoing concern. Dewar calculated, in 1905, that £20 10s 10d was the average annual expense of keeping a habitual offender in prison: *PJ*, 17 June 1905.

And the expense, as we saw earlier, limited the number sent to inebriate reformatories: Section 5.5 a) Sentencing Inebriated Female Recidivists. Similarly Parry, *The Law and the Poor*, p. 226.

the bench showed them that short-term imprisonment compounded recidivism and long-term imprisonment was equally useless in preventing anti-social behaviour. Moreover, their experience also encouraged them to consider that to incarcerate, for years, people who they not did consider to be criminals to be immoral.¹⁰³⁹ Setting these judicial attitudes within the context of the national controversies surrounding the definition of the criminal class and the widespread disagreement over what was to be done to prevent, or at least reduce, re-offending, it is not surprising that, in the years preceding the introduction of probation, there was a strong culture in favour of pragmatic sentencing in Dundee's courts.¹⁰⁴⁰

5.6 Conclusion

According to legal theory, decisions taken in accordance with rules 'run in predictable, straight paths'. Discretionary decisions, in contrast, 'invoke an image of unpredictable tangents.'¹⁰⁴¹ As the Victorian and Edwardian criminal justice system was undoubtedly highly discretionary we should expect any summary of the treatment of offenders to be problematic. Certainly there is no getting away from the fact that diverse attitudes towards prostitution and drunkenness led to hugely variable levels of diligence and intervention by the criminal justice authorities on both sides of the Atlantic, and that this must account for some of the contradictions between the

¹⁰³⁹ C, 1 May 1866. This was the view of the Gladstone Committee in 1895: Rawlings, *Crime and Power*, pp. 108-9. North American judges also believed it unjust to punish 'relatively harmless persons more severely than so-called real criminals': Belknap, "Offending Women", p. 1072, similarly Howell, *Geographies of Regulation*, p. 139.

¹⁰⁴⁰ DA, 11 January 1866. Probation was mentioned in Chapter 2.

¹⁰⁴¹ George P Fletcher, *Basic Concepts of Legal Thought* (Oxford, 1996), p. 43.

findings of the previous historical studies.¹⁰⁴² What we have to determine is whether the local criminal justice authorities were more likely to exercise their discretion stringently with Dundee's women recidivists than with their male counterparts, as this bias could explain the gendering of the city's records.

Dundee's chief constables favoured the strict sentencing of habitual offenders; still, they did not promote the differential regulation of male and female recidivists. On this basis we may assume that, especially as the Constabulary became increasingly professional from the turn of the century, rank-and-file officers were expected to treat male and female ex-prisoners alike. But in light of the conviction statistics, which show that disorderly women faced a far higher risk of being sent before the magistrates than disorderly men, and also the complaints of unfair treatment brought by the women recidivists themselves, it seems likely that discrimination occurred to some degree especially towards prostitutes.

The extent to which Robert could discriminate against female recidivists was, however, limited by a number of factors. Chief Constable Carmichael reported, in 1913, that '[i]f the police were to interfere' with young prostitutes at the harbour, 'they would be severely taken to task', presumably by sympathetic social commentators.¹⁰⁴³ Magistrates limited police zeal in dealing with female habituais each time they threw out a case against a female drunkard or prostitute. And the regulation of recidivists, of both sexes, was constrained by a lack of police manpower, limits on cell space, and crucially, the willingness of officers to interfere formally. In 1858, the lawyer John Pitt Taylor observed that the creed of the English police was

¹⁰⁴² A point that was raised in Chapter 1.

¹⁰⁴³ *S'man*, 14 May 1913.

akin to that of a sportsman keen to ‘bag their game’; but some four decades later, in response to that idea, Dewar said that the Dundonian reality was ‘entirely the reverse’ and the local trial reports confirm this.¹⁰⁴⁴

Nevertheless, if, for reasons entirely grounded in gender discourse, local arresting officers generally considered female recidivists a greater nuisance than their male counterparts, it would seem that differential standards of policing were behind the striking disproportion of female jailbirds. As no direct evidence has been found with which to compare the stereotypes that guided the policing of male and female recidivists in the city, we can only speculate on the essence of the sociology of Dundee’s ‘oatmeal monuments’.

It is worthy of mention that no misogynistic statements have been located in the police records, and a number of sources, in fact, lead us to doubt the existence of peculiarly punitive police attitudes towards women. Dewar, for example, stressed that prostitutes were ‘perfectly entitled to go into ... a public-house and get served’.¹⁰⁴⁵ Moreover, according to the trial reports, female drunkards and recidivist-thieves both received repeated warnings before they were arrested, and this refutes the idea that a disproportionate number of female drunks were brought to the court wholly due to differential standards being applied by the police at the point of arrest. The finding that male and female recidivists both complained of victimization and violence equally betrays an absence of gendered double standards. None of this, however, is to deny that certain women, with a reputation for causing trouble, experienced repeated

¹⁰⁴⁴ Godfrey, ‘Changing Prosecution Practices’, pp. 177, 185, and Smith, *Oxford History of Laws*, pp. 355, 6.

¹⁰⁴⁵ *PJ*, 14 April 1905.

police harassment. The context, though, was the existence of mutually antagonistic relationships between offenders and the authorities, which were as likely to develop between the police and recidivists of either sex.¹⁰⁴⁶ As for the treatment of Jane Arnot, the prostitute-thief released from prison and followed by officers ‘everywhere she went’, her case simply supports Macilwee’s finding that known offenders were ‘constantly targeted’, as was provided for under the prevention of crime legislation.¹⁰⁴⁷ Arnot’s treatment is not proof that a greater degree of police surveillance against female recidivists is reflected in the constructed crime rates.

Against the background of police attitudes there is also the vexed question of the ratepayers’ attitudes towards recidivist women, and whether the police were under greater pressure to concentrate their limited resources on the city’s nuisance women than on the down-and-out men. Double standards we would assume, on the basis of repeated sociological findings, were applied to female drunks. Yet Dundee’s primary sources provide an inconsistent picture of public attitudes: some female recidivists irritated and intimidated respectable citizens, but at the same time we read that female drunkenness was so common as ‘to cause little comment’, and this is to say nothing of the probability that drunkards like ‘Mag Gow’ were pitied.¹⁰⁴⁸ Today criminologists recognise that members of the public simultaneously hold punitive and merciful attitudes towards offenders, shaped not only by the media but also by their personal experience and that of close acquaintances.¹⁰⁴⁹ Viewed from this perspective, it seems unlikely that revulsion towards the female alcoholic eclipsed the offence associated

¹⁰⁴⁶ This may explain why Petrow found in London that the police harassed prostitutes with a reputation of causing trouble: *Policing Morals*, p. 145.

¹⁰⁴⁷ *C*, 28 August 1886, Macilwee, *The Liverpool Underworld*, pp. 42-43.

¹⁰⁴⁸ *DYB*, 1901 p. 204.

¹⁰⁴⁹ Julian Roberts and Mike Hough, eds, *Changing Attitudes to Punishment: Public Opinion, Crime and Justice* (Devon, 2002), p. 221.

with her male counterpart, especially when we can imagine that the men, who stood sneering at street corners, were equally if not more intimidating than the majority of women ex-prisoners, and men were a higher risk to public safety.

‘[A] complex balancing of competing objectives’, utilizing ‘flexible and adaptive strategies’, is how Boritch describes police interactions with the lower classes in Victorian Toronto.¹⁰⁵⁰ Likewise, the complexity of the Dundonian officers’ response to petty offenders stands out in this study. What we must take from the conflicting trial reports is that there was a wide range of relations between the police and recidivist women in the period. We can imagine that there were officers who sought to repress drunken behaviour and prostitution, just as we suspect that there were individuals inclined to sympathize with the women’s plight. There will also have been officers who only made an arrest in response to a public complaint and it is fair to assume that within the Force there were those prejudiced and hostile towards certain women. The recidivists themselves will also have provoked different reactions. Some were clearly lethargic and vulnerable drunks who needed to be taken off the streets for their own well being, whereas others were extremely exacting and it is likely that the police avoided removing them to the station unless their rowdiness had drawn a crowd. In light of the nuances surrounding the policing of recidivist crime, there was clearly more to the arrest and re-arrest of female habitual offenders than can be accounted for by police prejudice.

As for whether judges were directly responsible for the Dundee’s recidivism records, by unfairly convicting women offenders, we have found even less evidence to support

¹⁰⁵⁰ Boritch, ‘Conflict, Compromise and Administrative Convenience’, pp. 141-174.

the double deviance theory. The city's magistrates and sheriffs did not exercise their discretion more stringently with women habitual offenders than their male counterparts. They did not take the opportunity to reaffirm traditional notions of appropriate female behaviour when female recidivists appeared in the dock, and they did not treat prostitutes more punitively than non-prostitute offenders. In fact, the trial reports indicate that it was male offenders who were most commonly the victims of judicial invective. One man, indeed, was told that the police should 'stamp upon him in the gutter'.¹⁰⁵¹ He belonged to a class of (male) offenders who consistently perpetrated serious violence against their wives and the sailors who visited the city.

1052

Bailie Perrie's comment to recidivist Mary Stewart Campbell, that 'she should have stayed in Edinburgh, as there was no want of her class in Dundee', mirrored the feelings towards known trouble-makers of either sex, rather than a malevolence to women.¹⁰⁵³ By weaving together the judicial statements and sanctions concerning recidivist drunks, thieves and prostitutes, we have seen that the context of the offence, rather than the gender of the offender, was prioritized by sentencers. And in this way harsh punishments were imposed when the recidivist's behaviour was deemed to warrant it, and when there was a valid reason a lenient sentence was delivered. Given the recognised failure of prison to deter re-offending, a promise of reform was often reason enough to persuade magistrates in Dundee, as Fingard found in Canadian Halifax, to let female habitual offenders walk free.¹⁰⁵⁴

¹⁰⁵¹ C, 13 December 1888, he added 'that method was hardly as yet recognised by law'.

¹⁰⁵² *PJ*, 13 July 1872, *WN*, 14 April 1888.

¹⁰⁵³ *WN*, 10 July 1880.

¹⁰⁵⁴ Fingard, *The Dark Side of Life*, pp. 31, 33.

In his retirement speech, after thirty years of public service in the police court, D. S. Smith, the eccentric bailie we met at the start of this chapter, said '[h]e always tried to administer law without fear or favour.'¹⁰⁵⁵ As pragmatism and not prejudice is the dominant theme in Dundee's court archives there is little room to doubt that Bailie Smith, and his colleagues, jealously guarded the British tradition of judicial impartiality.¹⁰⁵⁶ The findings, therefore, concur with the previous studies that have rejected the place of prejudice and 'the sex factor' in the history of the lower courts in Britain and North America.¹⁰⁵⁷ And the challenge to the double deviance concept underlines the veracity of Peter King's comment that while modern criminology can provide historians with a useful starting point, it cannot be assumed the theories are relevant to the past.¹⁰⁵⁸

Having challenged the place of prejudice in Dundee's criminal justice system, this chapter has, nevertheless, considered the possibility that a discriminatory policy of protective detention might be linked to the specificity of the city's recidivism statistics. The statements given by individual magistrates, justifying the sanctions they

¹⁰⁵⁵ *PJ*, 31 October 1925. Similarly *S'man*, 21 October 1909 and Parry, *The Law and the Poor*, pp. 17, 207.

¹⁰⁵⁶ Conley, *The Unwritten Law*, pp. 6, 19. Also Bright refers to E P Thompson, *The Making of the English Working Class* and Douglas Hay *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England*; that for the law to work and be respected it must be seen to be independent and just: 'Loafers Are Not Going to Subsist Upon Public Credulence', p. 42. Similarly, Louis S Knafla, 'Review of 'Magistrates, Police and People: Everyday Criminal Justice in Quebec and Lower Canada 1764–1837', by Donald Fyson', *Crime, History and Societies*, 13 (2009), p. 5.

¹⁰⁵⁷ Taylor, *Hooligans, Harlots and Hangmen*, p. 717, Grace, 'Female Criminality in York and Hull', p. 200.

¹⁰⁵⁸ King 'Gender, Crime and Justice in Late Eighteenth- and Early Nineteenth-Century England', p. 63. Sociologists in fact make similar comments on the relevance of labelling theory, see Phillips and Dinitz, 'Labelling and Juvenile Court Dispositions: Official Responses to a Cohort of Violent Juveniles', p. 276.

imposed, reveal that many regarded detention as the only way to stabilise the chaotic lives of women entrenched in the criminal justice system. And because newly-released women prisoners were more likely to be in worse straits than ex-male prisoners, since they were less likely to receive official and unofficial aid to help them find accommodation, food and employment, this may indicate that they received custodial sentences more readily. The popularity of asylum theory, at the end of the century, which led to inebriate reformatories and prostitute refuges is not, however, a satisfactory explanation for the long-term female dominance of the recidivism records. It was because the existing penal system was failing the likes of Margaret Gow and Euphemia Duff that Dundee's magistrates and chief constables became advocates of protective detention, as an alternative to the short prison sentence typically awarded to habitual offenders. In short, protective detention was the authorities' practical response to the problem of multiple offending and not a significant cause of it. And we should remember too that men benefited from protective custody.

This chapter has tried to link the disproportionate position of women in Dundee's recidivism records with police and judicial discrimination. The available records show that it would be unreasonable to attribute more than a small part of the enormous overrepresentation of women to double standards within the criminal justice system.

Michael Willrich argues, in an American context, that it is not hard to imagine the appeal of Edwardian degeneracy theories when judges were faced daily with recalcitrant recidivist-prostitutes.¹⁰⁵⁹ It seems surprising therefore that our analysis

¹⁰⁵⁹ Willrich, *City of Courts: Socializing Justice in Progressive Era Chicago*,

has shown that, in determining the case outcome, Dundee's judges appear to have given very little weight to the theories of the medico-psychological community, which purportedly were drafted to guide them. For example, by providing female recidivists with the opportunity to reform they clearly rejected the opinions of prison scientists that female offenders were defective to the core, and by pursuing strategies of protective custody they appear to have been persuaded that crime had social causes. The next chapter will discuss the evidence that the criminological narrative, predicated on women's psychological and biological make-up, had little practical bearing on the treatment of Dundee's female recidivists. It will be suggested that the Victorian and Edwardian criminal discourse was far more complex than the leading studies (discussed in Chapter 4) suggest. And the next chapter will also extend the discussion in Chapter 4 by revealing that there were several factors, other than discrimination by the police and courts, which contemporaries associated with the female proclivity to reoffend.

Chapter 6

Revisiting Prison Science and the Influences on Female Recidivism

The Sheriff – Are you going to do better or will I send you to prison at once?

Mrs Mahady – Actually, I don't care what you do.

The Sheriff – Did you fortify yourself with a little before coming here to give impudence? You are one of the most foolish women I have had the misfortune to see here. Most women that come here are the victims of poverty and temptation. I will give you another chance in order that you may come to your senses. Let whisky alone or else you might get a try of teetotalism very soon.¹⁰⁶⁰

6.0 Introduction

The frequency with which the trial reports show that women, like Mrs Mahady, were treated leniently by the courts has led to the finding, in Chapter 5, that the predominance of women in Dundee's recidivism records cannot, to any significant extent, be explained by a social control thesis. Our purpose now is to suggest, on the basis of documents discovered during the investigation of female crime in Dundee, that it is not surprising that the city's criminal justice practitioners were only marginally implicated in the specificity of the statistics. It will be shown that too much has been made, by British and North American feminist scholars, of the impact of misogynist theorizing on the experience of deviant women in the late nineteenth and twentieth century, and that they have provided an overly narrow definition of Victorian and Edwardian criminology.¹⁰⁶¹ Our expectation that Dundee's criminal justice practitioners were responsible for the gendered recidivism records, because

¹⁰⁶⁰ *WN*, 30 June 1900.

¹⁰⁶¹ Sociologists typically include merely a chapter on the history of criminology in their studies, for example Carol Smart, *Crime and Criminology: A Feminist Critique* (London, 1977).

they shared the view of the medico-psychological community that the female habitual offender was a greater problem than their male counterpart, was predicated on an over-simplified account of criminology's history.¹⁰⁶² To put it crudely, we had a myopic vision of late-nineteenth and early-twentieth century criminological discourse when we began our research of Dundee's courts and constabulary.

The first half of this chapter will show that there is a sound evidential base for believing that Dundee's magistrates, police and press were often suspicious of contemporary prison science. Secondly, it will be demonstrated that, like their modern counterparts, Dundee's magistrates were often most persuaded by intuitive and instinctive understandings of crime.¹⁰⁶³ This will allow us to discuss the evidence that theories, conventionally associated with contemporary criminology, actually had little bearing on the city's criminal justice practitioners. Having suggested that contemporaries rejected the criminological discourse, we will go on to challenge the portrait of the medico-psychological community found in the leading scholarly literature discussed in Chapter 4.

As Chapter 5 rejected the idea that the police and judicial discrimination can wholly explain the striking female dominance of the crime statistics, the second part of this chapter will consider what other powerful forces may have caused women to return to prison more often than their male counterparts. By using evidence stumbled across in the judicial research, and drawing upon modern sociological theory in its interpretation, we shall see that there is no simple or straightforward way of

¹⁰⁶² As was explained in Chapter 4 the terms prison science and medico-psychological community are used to refer to contemporary criminologists.

¹⁰⁶³ Carrabine, *Criminology*, p. 31.

accounting for the striking gender anomaly in Dundee's recidivism records. Indeed this chapter will conclude by highlighting the need for further research.

6.1 'Partial and Misleading': Prison Science 1865–1925

6.1a) The Reach of Prison Science

In 1918, the esteemed English prison scientist, Dr Charles Goring noted that his profession sought to formulate '*practical* measures' to guide the criminal justice system in 'the prevention of crime and the treatment of criminals' (italics in the original).¹⁰⁶⁴ Given that contemporary criminologists were motivated to use their research to formulate working guidelines and that, according to D. J. West, only the end of the Second World War saw the dismissal of the idea of the feeble-minded criminal and scepticism towards medico-psychological formulas generally,¹⁰⁶⁵ there is clearly a need to investigate why the local archives suggest that prison science had little practical effect on the sanctioning of the female recidivist.¹⁰⁶⁶ We will start by asking whether Dundee's judges and the police were familiar with the leading medico-psychological theories that were defined in Chapter 4.

Dundee's bailies were laypersons, without legal qualifications. As for the sheriffs, they had probably come through the ranks as lawyers and had merely been part-time law students, since, in this period, academic study was ancillary to practical

¹⁰⁶⁴ Charles Goring, 'The Aetiology of Crime', *Journal of Mental Science*, LXIV (1918), p. 136.

¹⁰⁶⁵ D J West, 'Psychological Contributions to Criminology', *British Journal of Criminology*, 28 (1988), p. 77.

¹⁰⁶⁶ Garland writes of their practical goals: 'British Criminology before 1935', p. 58.

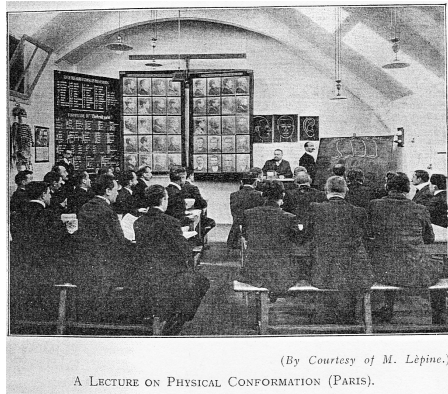
apprenticeship.¹⁰⁶⁷ Nevertheless, via books and journals, as Dr Goring's comment implies, they had ready access to criminological research that was intended to inform lawyers, judges, prison administrators, as well as reformatory and poorhouse staff on the causes of crime. *Criminal Psychology* (1911), for example, was one of scores of publications advertised as 'a manual' for judges and practitioners. It was part of the 'Modern Criminal Science Series', described as providing the 'latest and most lucid statements ... of the problems of Criminology' and pertinently the series included Lombroso's *Crime, its Causes and Remedies*.¹⁰⁶⁸ Dundee's magistrates, we know from Chapter 5, met regularly with their counterparts from other Scottish cities to discuss habitual offending, they also attended national conferences, where, we can imagine, the latest prison science was debated.¹⁰⁶⁹ But what about the rank-and-file policeman: did the work of the medico-psychological community reach him?

¹⁰⁶⁷ David M Walker, *A Legal History of Scotland, Volume VI: The Nineteenth Century* (London, 2001), p. 266, Logan 'Professionalism and the Impact of England's First Women Justices', p. 837.

¹⁰⁶⁸ Hans Gross, Trans by Horace M Kallen, *Criminal Psychology a Manual for Judges, Practitioners and Students* (London, 1911). There was no shortage of books on criminology; London's National Book Council listed 300 in its 1924 bibliography. The latest theories were also published in articles by the Howard League for Penal Reform and the National Association of Probation Officers.

¹⁰⁶⁹ The magistrates also held monthly local meetings: *PJ*, 3 November 1900.

Image 6.1: ‘ A Lecture on Physical Conformation (Paris)’



From: Hargrave L Adam, *Women and Crime* (London, 1914), p. 96.

The undated pre-war photograph above appears to show French officers being taught to recognize distinctive criminal facial characteristics (Image 6.1). Walker and Klein tell us that many decades were to pass before British police officers received official training in crime theory, and this concurs with the surviving Dundonian evidence.¹⁰⁷⁰ As for the likelihood that the police schooled themselves in the latest ideas, probably only those in the upper echelons had the time, energy or inclination to turn to the research literature. Having said that, we know that a local gathering of officers, in 1887, was lectured on the inadequacies of the prison system and P.C. John Dunn wrote an essay on crime and its causes.¹⁰⁷¹ We also discover a number of armchair crime theorists in the archives. Amongst them are criminals who recited the most fashionable theories – when making their precognitions to the procurator fiscal.¹⁰⁷²

¹⁰⁷⁰ Walker, *A Legal History of Scotland, Volume VI: The Nineteenth Century* pp. 266-267. Klein writes that police training was always inadequate 1900-1939: *Invisible Men*, pp. 24-5, and this was also true in North America: Monkkonen, *Police in Urban America*, pp. 1-2, Weaver, *Crimes, Constables and Courts*, p. 99. A Dr Sutherland visited the Dundee's Westgreen asylum, he was probably Dr Sutherland, the famous expert on alcoholism, who linked habitual offending with drink addiction, but there is no indication that he spoke to the police during his visit.

¹⁰⁷¹ *WN*, 12 March 1887, Lamb 237(5).

¹⁰⁷² *WN*, 22 January 1921, *RHO*, 13,642, Lennox, p. 366.

On this basis it is reasonable to assume that the police were equally familiar with the most popular prison science.

It is likely that the police picked up their knowledge from newspapers. Considerable coverage was given to local and national debates on how best to treat habitual drunkenness. The press also summarized public lectures on crime, and column inches were given to the results of criminological studies in America, as well as to debating alternative methods of punishment.¹⁰⁷³ Moreover, it is fair to speculate that police constables were fully conversant with biological explanations of crime, such as degeneracy theory, because the language of Social Darwinism, from which they drew, was part of popular culture at the end of the century.¹⁰⁷⁴

Since the criminological theories were common knowledge does this mean that they were valued? The archives reveal Frederick Hill, Inspector of Scottish Prisons in the 1860s, believed in indeterminate sentencing. Similarly Sir Edmund du Cane, Chairman of the English Prison Commission, was, according to contemporary thinking, 'heavily influenced' by the theory that criminality was inherited.¹⁰⁷⁵ However, Chairman McHardy, of the Scottish Prison Commission, believed that petty offenders should be kept out of prison. In the late 1890s and 1900s he argued that court fines were too high and that defendants should be given more time to pay.¹⁰⁷⁶

As we shall see in the next section, the sources indicate that Dundee's magistrates and

¹⁰⁷³ *DYB*, 1901 p. 214, *C*, 5 January 1893, 25 September 1900, 25 August 1873, 19 December 1893, 4 April 1913, *S'man*, 1 July 1913, *PJ*, 7 May 1910 headline: 'HORRORS OF THE AMERICAN PRISON SYSTEM'.

¹⁰⁷⁴ Degeneracy, caused by drink in particular, was blamed for the physical defects of the huge numbers of working-class men deemed unfit for service in the Boer War.

¹⁰⁷⁵ Radzinowicz and Hood, 'Incapacitating the Habitual Criminal', pp. 1316, 1320.

¹⁰⁷⁶ D. Smitt, 'Colonel A B McHardy: The Transformation of Penalty in Scotland 1885-1909', *Scottish Economic and Social History*, 9 (1989), p. 44.

Chief Constable Dewar wholeheartedly rejected the idea of indeterminate sentencing. And, more importantly for our purposes, they departed from those who understood female criminality in psychological and biological terms.

6.1 b) Prison Science: A Manipulation of the Facts

There is a wealth of local evidence that the ideas of the medico-psycho community, the so-called ‘expert’ discourse on which much of the history of female criminality rests, was rejected by contemporaries.¹⁰⁷⁷ A pamphlet, printed in 1876 at *The Advertiser’s* office, entitled *The Sources Of Crime In Dundee*, does not refer to the biological theories scholars have most strongly associated with the medico-psychological community. In fact, its author, Reverend McGavin, was amongst a number of commentators sympathetic to the social causes of crime.¹⁰⁷⁸ In 1905, when prison scientists believed that alcoholism was partly, if not completely, attributable to an inherited susceptibility, the editor of the middle-class *Piper* provided an indisputable demonstration, by way of analogy, of his rejection of the view that alcoholism was inherited: a ‘man who has a leg removed’, the paper, observed ‘does not have children with one leg’.¹⁰⁷⁹ The reference to the father can be also interpreted as demonstrating *The Piper’s* unwillingness to endorse the scientists’ obsession with the liability of mothers for the attributes of the next generation. In fact, *The Weekly News*, in 1906, showed Dundee’s crime discourse to be not dissimilar from that of today’s criminologists when it reported that male and female offending was attributable to multi-causal factors:

¹⁰⁷⁷ Morrison, ‘Ordering Disorderly Women’, p. 117.

¹⁰⁷⁸ Lamb 39(1) ‘The Sources Of Crime In Dundee: Speech Delivered By The Rev. Dr McGavin At The Annual Meeting of the Prison Aid Society’, (Dundee, 1876).

¹⁰⁷⁹ *Piper*, 15 December 1905. On maternal responsibility for their children’s criminality see Crites, *The Female Offender*, p. 16.

insufficient parent control – neglect – bad example, especially in drinking, wretched state of homes – evil companions – bad upbringing – desire to attend places of amusement, which leads to theft – bad literature, and too youthful marriages.¹⁰⁸⁰

Morrison argues that androcentric prison science ‘strongly influenced’ the media’s representations of the female drunkard, but allusions to the inferiority of female psychology are absent from the press reports on Margaret Gow.¹⁰⁸¹

Dundee’s most prevalent female offender, was, it seems, never described in print as a biological anomaly. On the contrary, in 1877, it was reported that she suffered from a ‘drink disease as purely physical as fever’.¹⁰⁸² The diagnosis reflects how editors, in common with Chief Constable Dewar and a number of local magistrates, shared the view that she ought to be kept away from drink until she was cured of her drink habit. The date is important because it was not until the end of the century that the opinion that alcoholism was a medical, rather than a moral, condition became the dominant criminological position in Britain.¹⁰⁸³

Image 4.2 in Chapter 4 poses another challenge to the importance of theories based on biological determinism on the treatment of the Victorian female offender. Rather than

¹⁰⁸⁰ *WN*, 17 March 1906. Similarly 31 March 1888, 22 September 1888, *DA*, 13 March 1886. Multiple causal factors were also identified by the *Manchester Evening Chronicle* 14 February 1923. Today’s criminologists advocate that crime is caused by, amongst other things, a set of learning experiences and highlight the significance of family and friends in particular: James McGuire, *Understanding Psychology and Crime: Perspectives on Theory and Action* (Berkshire, 2005), p. 34, Ngaire Naffine, *Female Crime: The Construction of Women in Criminology* (London, 1987), p. 40, Blackburn, *The Psychology of Criminal Conduct: Theory, Research and Practice*, p. 177.

¹⁰⁸¹ Morrison argues that the press blamed female offending on their inherent wickedness or their biological weakness and attention was not paid to environmental causes: ‘Ordering Disorderly Women’, pp. 174, 180-181, 215, 219.

¹⁰⁸² Lamb 216(59), similarly Conley, *Certain Other Countries*, p. 87.

¹⁰⁸³ *C*, 1 May 1866, see Wiener, *Reconstructing The Criminal*, p. 297.

blaming the female character for the problem of drunken mill girls, by incorporating the pawnshop signs the cartoonist for *The People's Journal* links female dipsomania with the ease with which women were able to obtain drink on credit.¹⁰⁸⁴ Similarly, thousands of trial reports sampled in this study show a disassociation between the experience of female offenders and misogynist prison science. This is because, counter to what we were led to expect, magistrates did not refer to the inherited inferiority of female offenders, nor their masculine appearance.¹⁰⁸⁵ In fact, numerous sources testify to Dundee's crime practitioners taking the opposite line to that of Lombrosian-inspired commentators.

According to the existing scholarship, contemporary criminologists were fixated by the constitutional nature of crime and advocated the intractability of prostitute-recidivists like Euphemia Duff or Quinn.¹⁰⁸⁶ It is striking, therefore, that Chief

¹⁰⁸⁴ *DA*, 16 January 1886.

¹⁰⁸⁵ Morrison argues that in the English police court columns female offenders were portrayed through a narrow range of negative stereotypes: the masculine woman, the fallen woman, the wicked woman, the mad woman: 'Ordering Disorderly Women', pp. 147, 184. Only one case has been located in Dundee's press where the defendant is described as 'a masculine-looking woman' and the trial report takes up no more column inches than the other trials heard that day. The court headline, which we may expect would be laden with prejudice, does not refer to her appearance: *WN*, 15 September 1888. This is the same case, discussed in Chapter 5, where the woman curses the magistrate as she is leaving the bar. Physical descriptions, incidentally, are provided of male beggars and betray the journalists' impression of whether they were genuinely starving. For example 'stout young men' insinuated fraud: *WN*, 19 March 1887.

¹⁰⁸⁶ *C*, 22 January 1891. Further evidence that the opinions expressed by prison theorists did not prevail in Dundee is exemplified by the language used to condemn male 'unnatural' behaviour provided in Chapter 5. We should also be interested in how the Irish and epileptics were treated in court. Epilepsy was a factor considered to furnish 'a considerable share' of male and female crimes. See John Baker, 'Some Remarks on the Relation of Epilepsy and Crime', *Journal of Mental Science*, XXXIV (1889), p.187. However Dr James Rorie of Dundee's Westgreen Asylum does not link epilepsy with crime, and the condition is absent from over three thousand studied court reports: *WN*, 26 June 1886. On the Irish it is significant that despite the large

Constable Dewar repeatedly rejected the idea of intermediate sentencing for habitual offenders, including prostitutes.¹⁰⁸⁷ What is more, in 1894, concluding their investigation of habitual offending, Scottish commissioners reported that while the prison scientists believed that the ‘reformation of [habitual] offenders [was] a hopeless object to strive after’, this was not their position.¹⁰⁸⁸ And none of the police, who responded to a Scottish questionnaire on juvenile and adult crime, in 1888, supported the theory that offenders were inherently bad either. Rather, in common with the commissioners, they believed that their reform was possible.¹⁰⁸⁹ Dundee’s magistrates were also most likely to take this view.

In 1900, Bailie Doig spoke of the importance of trying to reduce female re-offending by having ‘many good influences about the Court’ (he was referring to the work of the Salvation Army).¹⁰⁹⁰ Indeed, from the turn of the century, Scottish magistrates repeatedly called for ‘more human and reformatory treatment’ of ‘the habitual offenders of the dissipated and criminal classes’.¹⁰⁹¹ ‘No criminal, however often convicted and apparently hardened, is to be looked upon as altogether hopeless’, was the motto of Dundee’s Prison Aid Society. The association had been working to restore male and female offenders to law-abiding ways since 1876. Its members and

Catholic-Irish population the Irish were not made scapegoats for the rising crime rates: Sukaina Haider, ‘A Notable Absence of Hostility? Attitudes Towards the Irish in Dundee’, *Historical Studies*, 7 (2007).

¹⁰⁸⁷ *PJ*, 8 April 1905, *S’mán*, 20 January 1914.

¹⁰⁸⁸ *RHO*, and *Reports on Adult and Juvenile Crime Together with Abstract of Returns as to Same by Heads of Police Establishments and Prisons in Scotland and Others* (HMSO, 22 March 1888). Scottish magistrates also expressed sharply contrasting views to those that have been associated with the medico-psychological community when, in 1913 as discussed in Chapter 5, they campaigned government directly to try to effect a change in the treatment of recidivists: *S’mán*, 1 July 1913.

¹⁰⁸⁹ Smitt, ‘Colonel A B McHardy’, pp. 43, 50.

¹⁰⁹⁰ *PJ*, 3 November 1900.

¹⁰⁹¹ *PJ*, 8 April 1905.

board members included magistrates and sheriffs, chief constables and prison governors. So it seems that a policy aimed at the rehabilitation of recidivist women had, for decades, guided the city's criminal justice practitioners, notwithstanding that prison scientists argued that women offenders were irredeemable.

As we saw in Chapter 4, histories of female criminality foreground the impact of degeneracy theory in their discussion of the period. For Zedner, the finding that around 80 per cent of admissions into inebriate institutions were women is evidence of the medicalisation of the feeble-minded female recidivist.¹⁰⁹² It is revealing, therefore, that Dundee's judges rejected the idea that women returned, time and time again, to the streets because they were mentally defective. Neither Quinn, nor any of Dundee's other renowned female offenders were associated with degeneracy theory.¹⁰⁹³ When the feeble-minded label was applied, it was to drunkards of both sexes. As for the argument that women were more likely to be integrated into the psychiatric model of crime, there is no evidence that the Dundonian courts assumed

¹⁰⁹² Zedner, 'Women Crime and Penal Responses', pp. 307-62.

¹⁰⁹³ *DA*, 3 August 1886, *PoR*, 1889 p. 9, *WN*, 20 March 1887. The term 'incorrigible blockhead' has been identified, infrequently, and was probably the equivalent of feeble mindedness: *WN*, 12 June 1886, 17 March 1906. Admittedly its rare appearance is not necessarily indicative of the limited appeal of the degeneracy theory. It may be that judges were so convinced of the degeneracy of drunkards that comments to that effect were deemed unnecessary. Obviously we must consider the likelihood that evidence of such pronouncements may not have survived because the press coverage of the police court becomes far less detailed from the turn of the century and this was the very time when the theory of degeneracy reached its peak. Taking the evidence as a whole, however, it seems that prison science had little weight in the city.

women to be inherently irrational.¹⁰⁹⁴ On the contrary, the trial records show that *men* were more likely than women to be deemed mad.¹⁰⁹⁵

Dundee's magistrates provide repeated confirmation that the attitudes of those working with offenders, on a daily basis, often bore little relation to those held by criminology's most famous sons.¹⁰⁹⁶ For example, although the Sheriff knew that Mrs Euphemia Duff or Quinn 'made money in an improper way', he thought that she—a drunkard and prostitute—was no worse than her recidivist husband, and considered that she would behave better without him.¹⁰⁹⁷ Bailie Taylor was typical in expecting that 'there must be some ... [social] circumstance or excuse' to account for petty misdemeanours. That is, he was typical in leaving aside the matter of biological causes in favour of finding a sociological explanation for the actions of women in the dock.¹⁰⁹⁸

In reviewing the court reports we find that Dundee's judicial and police practitioners were strongly in tune with the social reformers' response to habitual offending. The

¹⁰⁹⁴ Zedner writes at length about the association of Victorian female offenders with madness: 'Women, Crime and Penal Responses', p. 346, and in *Women, Crime and Custody*, pp. 264-297.

¹⁰⁹⁵ *WN*, 23 March 1895, 12 December 1885, 5 March 1887, 29 August 1885, similarly Conley finds that the judiciary did not consider the working-class women who committed manslaughter as mad: *Certain Other Countries*, p. 92.

¹⁰⁹⁶ Their comments illustrate that they recognised that hardships, caused by unemployment, sickness, death and debt, led women to drink, and thence to crime: *WN*, 9 January 1886, 30 June 1900, 15 March 1887, 4 July 1885, 31 March 1888, 22 September 1888.

¹⁰⁹⁷ *C*, 14 July 1888. The evidence concurs with Ginger Frost's finding that judges castigated violent men even when their partners were drunk and worked as prostitutes: *Living in Sin*, pp. 36, 38.

¹⁰⁹⁸ *WN*, 19 June 1886. In the Canadian courts 1920-1950 there is evidence that in the trials of female criminals there were competing discourses: one stressing the environmental causes of crime, the other the inevitable seeds of immorality behind female law-breaking: Sangster, 'Pardon Tales' from Magistrate's Court', p. 162.

latter, of course, did not regard the female defendant any differently to her male counterpart because, by and large, when they studied criminality they focused on the impact of environmental factors. Several local newspaper articles record discussions between social reformers and criminal justice practitioners.¹⁰⁹⁹ The details not only suggest that Chief Constable Dewar, along with his Scottish counterparts, canvassed social reformers for their thoughts on the most effective methods of dealing with inebriates and prostitutes, they also show that they adopted their ideas.¹¹⁰⁰ Dewar, for example, in calling for Booth's 'Farm Colony' system to be established in Dundee, complimented the 'the farm colony of the Salvation Army' for having 'proved very successful as an agency for the reclamation of the fallen'.¹¹⁰¹

It is currently unknown whether the city's criminal justice practitioners were persuaded by the ideas of social reformers, like Charles Booth, over those of Dr Charles Goring and his colleagues, or whether it was their own experience that led them to develop beliefs resonant with the social reformist position. Criminal justice practitioners were certainly ideally placed to gain an intimate knowledge of working-class life. Policemen patrolled slum communities and, in their role as domestic missionaries, were routinely tasked with assisting the poorest and most vulnerable in society.¹¹⁰² Indeed, from the earliest days of the New Police, officers both served and

¹⁰⁹⁹ C, 4 November 1897, 29 December 1883, 10 April 1877, 8 July 1893, 25 September 1877.

¹¹⁰⁰ C, 8 July 1893, 27 May 1898.

¹¹⁰¹ C, 26 December 1895, *PJ*, April 1905. On the Salvation Army's 'Darkest England Scheme' of farm colonies see C, 26 December 1895.

¹¹⁰² The police had to balance the 'domestic missionary role' with their crime prevention duties. Throughout Britain and North America it was common for the police to function as quasi-welfare institutions providing food and shelter to vagrants, indigents, and destitute families without other means of support. In Dundee the Bell Street Police Station served this purpose by providing overnight shelter to the homeless. On this see Robert D Storch, 'The Policeman as Domestic Missionary:

coerced the poor.¹¹⁰³ The case of Ann McCafferty serves as an example of the stories of chaos and unhappiness commonly heard by Dundee's police magistrates that encouraged the pragmatic sentencing discussed in Chapter 5.

McCafferty was familiar to the authorities. In February 1880, she was arrested for disorder on the very day she had been released from prison, after serving a seven-day sentence for drunkenness, and this had been immediately preceded by nine months' detention in Perth gaol. The magistrate on learning that, on the day of her arrest, McCafferty had discovered that her husband had 'taken up with another woman' and could not be found, that her two girls were in the industrial school, and that she was unable to trace any of her five sons, dismissed her from the court *without* admonition. Instead, he advised her to approach Mr Scrymgeour, the well-known helper of the city's poor.¹¹⁰⁴ Bailie Maxwell also demonstrated his familiarity with a tangle of social problems in his response to the city's annual police statistics in 1873:

These figures show only part of the evil. They do not tell of the patient sufferings of broken-hearted wives, of the sad trials of hopeless husbands, of the sons' blasted prospects, of their daughters' terrible temptations, or, saddest of all, the uncared for, worse than orphaned state of the miserable children of the poor victims of intemperance'.¹¹⁰⁵

It is easy to see why criminal practitioners would collude with social reformers, rather than crime scientists, when many worked directly to bring practical relief to the poor and vulnerable. Dundee's Sheriff Cheyne, for example, was involved with the provision of housing for migrant women, newly-released prisoners

Urban Discipline and Popular Culture in Northern England 1850–1880', *Journal of Social History*, 9 (1976), pp. 481-509, also Boritch, 'The Criminal Class Revisited', pp. 140-141, and Fingard, *The Dark Side of Life*, p. 50.

¹¹⁰³ Smith, *Oxford History of Laws*, p. 46. Monkkonen, *Police in Urban America*, pp. xiii, 86, 91, 106.

¹¹⁰⁴ *WN*, 21 February 1880. Sympathy is also shown to men with domestic problems.

¹¹⁰⁵ *C*, 26 August 1873.

and prostitutes.¹¹⁰⁶ Dundee's Chief Constable Carmichael, moreover, was awarded an O.B.E in recognition of his public work with poor families at the turn of the century.¹¹⁰⁷ These men did not embrace and expound similar beliefs to prison physicians and psychologists, as Sangster suggests in a Canadian context.¹¹⁰⁸ The sources equally show that we would be unwise to follow her assumption that magistrates supported sexist theories of crime because they shared a common background with the men in the medico-psychological community.¹¹⁰⁹ Bailie D.S. Smith, for example, a Dundee police magistrate for over thirty years, had left school at ten years of age and said he had first-hand knowledge of the struggles of working-class life. Consequently we can imagine that he knew something of the soul-destroying pressure women were under to make ends meet that could lead them to drink.¹¹¹⁰ The same might be said of his colleague: Bailie Fletcher. He grew up in a slum tenement, with the ten surviving members of his family; and his father, 'never earned a pound a week in his life'.¹¹¹¹

It is not only the Dundonian sources that challenge the view that a discriminatory narrative dominated the experience of female offenders in the period. The evidence shows that at the end of the nineteenth century London's police magistrates discussed male and female jailbirds in the same terms. The proclivity of the recidivist to make

¹¹⁰⁶ *WN*, 22 September 1888, *DYB*, 1891 pp. 103-104, 1898 p. 33, also Parry, *The Law and the Poor*, p. xii.

¹¹⁰⁷ Unknown, *City of Dundee Police 150th Anniversary*, [no page numbers].

¹¹⁰⁸ Sangster, 'Pardon Tales' from Magistrate's Court', p. 181. The expectation is that magistrates were local aristocrats, worthies or clergymen and held attitudes associated with the upper classes: Sagarin, *Taboos in Criminology*, p. 87.

¹¹⁰⁹ They did, however, follow cultural constructions condemning the Women's Political and Social Union for their 'unladylike behaviour': *WN*, 14 August 1909, 30 June 1900.

¹¹¹⁰ *PJ*, 31 October 1925.

¹¹¹¹ D S Riddall, 'Social Structure and Relations', in J M Jackson, ed, *Third Statistical Account of Scotland the City of Dundee* (Arbroath, 1979), p. 459.

straight for the pub, on the completion of their sentence, was identified in both sexes, and both were described in negative terms. The ‘bulk’ of male drunks coming before the London police court, under the inebriate legislation, were deemed to be ‘of the vilest and most worthless description’. ¹¹¹² Because, as we saw in Chapter 4, the castigated female offender has a looming presence in the feminist histories, it is also pertinent that the nationally-notorious Jane Cakebread, who was described by a London police magistrate as belonging to the ‘worst of the class of habitual drunkards’, was neither portrayed as masculine nor mad, nor was she sentenced harshly. In fact, the Metropolitan magistrates thought that Cakebread, and women of her ilk, could be reformed. ¹¹¹³

Chief Constable Ross of Edinburgh, we can be sure, was another who rejected the idea that women’s lawlessness was due to an incurable malignancy acquired at birth. He told *The Scotsman* during the First World War, when condemnation of female inebriety reached fever pitch:

I hold no brief for the women who have ... given way to intemperance, but I think a word could fairly be put forward in their defence. I consider they are more to be pitied than blamed with very little to relieve the otherwise dull monotony of their lives.

Behind statements such as these surely lay a disregard for the sexist discourse typically associated with Victorian and Edwardian criminology because, as we shall

¹¹¹² Unknown, ‘Drink and Drunkenness in London by a London Police Magistrate’, p. 320 and Hunt, Mellor and Turner, ‘Wretched, Hatless and Miserably Clad’, p. 258.

¹¹¹³ Morrison argues that because Cakebread and other habitual female drunkards were eventually certified insane and permanently institutionalised ‘their continued resistance and refusal to be silenced manoeuvred them towards alternative forms of control’: ‘Ordering Disorderly Women’, pp. 256, 237-238. However a magistrate expressed genuine surprise when he learnt that she was in a lunatic asylum: ‘Drink and Drunkenness in London by a London Police Magistrate’, p. 324. Also see Parry, *The Law and the Poor*.

see in the next section, other sources indicate that the police frequently considered prison scientists to be ill equipped to comment on the causes of crime.

6.1 c) Prison Scientists: Labouring ... in Vain

[A]ble men may ... promulgate good theories for the Prevention of Crime and the Reclamation of Criminals, but without a practical knowledge of the criminal and the laws in force for dealing with them their labour is, to a great extent, in vain.¹¹¹⁴

So wrote Dundee's P.C. Dunn, in 1884. Dr James Devon, of the Scottish Prison Commission, similarly dismissed the prison scientists' theories as 'partial and misleading', in 1912, as they were based on a study of prisoners, which, he said, was like 'writing a Natural History from a study of caged birds.'¹¹¹⁵ Dr Hamlin-Smith—who became the first authorized British teacher of 'criminology' and the first to be described as a 'criminologist'—in *The Psychology of the Criminal* (1922) was even more critical; complaining that prison scientists reached their theories by fitting offenders into 'predetermined' conclusions by a 'manipulation of the facts.'¹¹¹⁶

Devon and Hamlin-Smith were medics, trained in psychiatry, working in prison. In other words, they belonged to the medico-psychological community. As the remainder of this chapter will show, the criminal discourse, scholars have associated with informing the treatment of female offenders, represents only a fraction of late-nineteenth and early-twentieth century criminology. The identification and analysis of

¹¹¹⁴ Lamb 237(5), p. 3.

¹¹¹⁵ Arthur St John, 'Criminal Anthropology and Common Sense', *The Sociological Review*, 5 (1912), p. 66, Deveron, *The Criminal and the Community*, p. xii. Similarly Thomas Holmes, police court magistrate in London, declared, in 1912, that probation officers 'knew as much about crime, its causes, and its treatment as any of the prison scientists': cited in Maurice Vanstone, 'Mission Control: The Origins of a Humanitarian Service', *The Journal of Community and Criminal Justice*, 15 (2004), p. 42.

¹¹¹⁶ M Hamlin-Smith, *The Psychology of the Criminal* (London, 1922), pp. 15, 156, Garland, 'British Criminology before 1935', p.59.

previously neglected evidence alludes to a significant number of researchers whose theories were not framed by cultural constructions of femininity and, in light of this, the leading feminist exegesis, presented in Chapter 4, is found to be lacking.

6.1 d) Reappraising the Evidence: Women Were ‘Quite as Tractable as Men’

Zedner, amongst others, argues that the Victorian and Edwardian approach to female crime was to abandon objective assessment in favour of emotional outbursts and moral censure.¹¹¹⁷ Undoubtedly some members of the medico-psychological community believed that female recidivists were less likely to reform than their male counterparts—because they deemed them to be maladjusted in a way that men were not—but this was not uniformly the assumption amongst the contemporary medics writing the scientific works of crime. Dr R. F. Quinton, the medical officer and governor of Holloway prison reported, in 1910, that ‘female prisoners were quite as tractable and amenable to discipline as men.’¹¹¹⁸ Others believed women would benefit from the inebriate reformatory in a way that men could not, because *men* were the more incorrigible.¹¹¹⁹ And to use Martin Wiener’s words, there was, by the last quarter of the nineteenth century, a sizable minority of ‘reflective persons’ who were convinced that sociological factors—the family, housing, economic conditions, and intemperance—lay behind female deviance.¹¹²⁰ Frances Kellor was one.

¹¹¹⁷ Zedner, *Women, Crime and Custody*, pp. 28, 224.

¹¹¹⁸ R F Quinton, *Crime and Criminals 1876–1910* (London, 1910, reprinted 1984), p. vii. Similarly, in 1875, the American Dr Ely Nan de Warker linked female criminality with economic and occupational limitations and that treating women as sexual objects encouraged them to commit sexually-related crimes: cited Estelle B Freedman, ‘Their Sisters’ Keepers: An Historical Perspective on Female Correctional Institutions in the Unites States: 1870–1900’, *Feminist Studies*, 2 (1974), p. 84.

¹¹¹⁹ Hunt, Mellor and Turner, ‘Wretched, Hatless and Miserably Clad’, p. 258, Morrison, ‘Ordering Disorderly Women’, p. 128.

¹¹²⁰ Wiener, *Reconstructing The Criminal*, p. 12.

Kellor, an American criminologist at the University of Chicago in the early 1900s, drew attention to the ‘tremendous force of the social and economic environment’ in accounting for female deviance.¹¹²¹ She fiercely criticized Lombroso’s methodology, and, replicating his experiments, concluded that the physiology of female criminals was not significantly different from non-criminal females, adding that the reason why Lombroso considered female criminals ‘more degraded’ than their male counterparts was due to the different standards he applied to male and female behaviour.¹¹²²

What the majority of studies fail to underscore is that there was never a single, over-arching, crime discourse amongst Victorian and Edwardian criminologists, nor was there ever an over-arching popular ideology.¹¹²³ Countless British researchers attributed deviance to a combination of inherited and environmental factors, as well as to the impact of policing.¹¹²⁴ For example, in 1891, the respected Reverend Morrison, chaplain at Wandsworth prison, favoured ‘anthropological, social, and cosmical’ causes of crime. In 1910, after making detailed case histories of repeat offenders (male and female), Dr William Healy produced a list of thirty-four causal factors.¹¹²⁵

¹¹²¹ Frances A Kellor, ‘Psychological and Environmental Study of Women Criminals II’, *The American Journal of Sociology*, 5 (1900), p. 679. For a discussion of Kellor see James Messerschmidt, ‘Feminism, Criminology and the Rise of the Female Sex ‘Delinquent’, 1880–1930’, *Contemporary Crises*, 11 (1987), pp. 253–4.

¹¹²² Frances A Kellor, ‘Psychological and Environmental Study of Women Criminals I’, *The American Journal of Sociology*, 5 (1900), p. 529, Zedner, ‘Women, Crime and Penal Responses’, p. 342. Mabel Elliot was another American female criminologist who also took a sociological stance: *Crime in Modern Society* (New York, 1952), p. 377. For others see Freedman, ‘Their Sisters’ Keepers’, pp. 80, 84.

¹¹²³ One of the few scholars who does make this point is L Mara Dodge in ‘*Whores and Thieves*’, p. 128.

¹¹²⁴ Garland, ‘British Criminology before 1935’, pp. 57–58.

¹¹²⁵ W D Morrison, ‘Reflections on the Theories of Criminality’, *Journal of Mental Science*, XXXV (1889), p. 14, Morrison, *Crime and its Causes*, p. 21, William Healy, ‘Critique on Recording Data Concerning Criminals’, *Annals of the American*

Moreover, some of the most dogmatic researchers changed their minds in the course of their careers. Dr David Nicolson, Medical Officer at Broadmoor Prison, claimed, in 1873, that habitual-criminals were physically different to non-criminals. Five years later he reversed his position and went on to conclude that most offenders could be helped to break free from their cycle of crime.¹¹²⁶

In the early twentieth century such was the ferocity of the debate over whether crime was caused by environmental or hereditary factors, and whether recidivists were or were not capable of reform that, as Dr Charles Goring acknowledged, there was ‘great confusion’ in much that was written.¹¹²⁷ And this is what the historians who have recently evaluated criminology’s past, and the pre-eminent criminologist David Garland have found.¹¹²⁸ Recognising the proliferation of pamphlets and books detailing the causes of crime, Anja Johanson highlights that nineteenth-century criminology was a far wider field than has been previously noted. It included, she writes, crime theorists and practitioners, from many different backgrounds, with nothing in common ‘other than claims to possess special insight and knowledge into

Academy of Political and Social Science, 52 (1914), p. 91. Similarly Clarence Darrow, *Crime and its Causes and Treatment* (New Jersey, 1922, reprinted 1972), p. vi.

¹¹²⁶ Even Lombroso, the most remembered criminologist, at the end of his career drew attention to the importance of both social and biological factors: Rebecca B Fleming, ‘Scanty Goatees and Palmar Tattoos: Cesare Lombroso’s Influence on Science and Popular Opinion’, *The Concord Review*, (2001), p. 202:

http://www.tcr.org/tcr/essays/eprize_lombroso.pdf [accessed 11 April 11].

¹¹²⁷ Goring, ‘The Aetiology of Crime’, p. 134, also J F Sutherland, ‘Recidivism Regarded from the Environmental and Psycho-Pathological Standpoints’, *Journal of Mental Science*, LIV (1908), p. 77.

¹¹²⁸ Bryan Hogeveen, ‘Review of ‘The Culture of Control: Crime and Social Order in Contemporary Society’, by David Garland’, *Canadian Journal of Sociology Online*, March–April 2003, <http://www.cjsonline.ca/pdf/control.pdf> [Accessed 12 September 2010], Dodge, ‘Whores and Thieves’, pp. 128, 264, Willrich, *City of Courts*, p. xxvi, Jeffrey S Adler, ‘The Dynamite, Wreckage, and Scum in Our Cities’: The Social Construction of Deviance in Industrial America’, *Justice Quarterly*, 11 (1994), p. 45.

the nature of criminals and how best to deal with them'.¹¹²⁹ Concurring with this view, in the following section, it will be shown that most histories of female criminality that touch upon the crime literature, by adopting a narrow definition of Victorian and Edwardian criminology, have largely overlooked perhaps the strongest influence on the treatment of the female offender.

6.1 e) 'Habitual Criminals: [A] Dundee Suggestion for their Treatment'

Our sub-title is a headline from *The People's Journal* in April 1905. It accompanied a report on an Edinburgh convention of magistrates and the delegates' views of Chief Constable Dewar's ideas on reforming habitual offenders.¹¹³⁰ Previous studies have ignored the writings and influence of practitioners working *inside* the criminal justice apparatus when describing the criminal discourse of the time. Yet, in common with members of the medico-psychological community there were many practitioners, outside the prison service, who sought to devise new ways to treat recidivists and to reform the criminal laws impacting directly on re-offenders.¹¹³¹ It is appropriate to introduce the term 'criminalist' to tag the wider group of criminological theorists within the criminal justice profession, for this was the internationally recognised label applied by contemporaries to *all* those who researched deviance: including lawyers, magistrates, prison psychologists as well as to Professor Lombroso himself.¹¹³²

¹¹²⁹ Johansen, 'Review of 'Criminals and their Scientists'', p. 161.

¹¹³⁰ *PJ*, 8 April 1905.

¹¹³¹ *C*, 1 October 1897, 16 September 1890, on Chief Justice Olson of the Municipal Court of Chicago, see Willrich, *City of Courts*, p. 244, similarly Garland, 'British Criminology before 1935', p. 57.

¹¹³² *The Examiner* 8 January 1881, *The Morning Post* 4 November 1863 and 8 September 1858, 10 October 1894, *Glasgow Herald* 18 December 1897, *The Newcastle Weekly Courant* 11 February 1893, *Pall Mall Gazette* 7 September 1888.

Crime practitioners like David Dewar, Dundee's Chief Constable and Procurator Fiscal, was a criminalist. Men like him ought to feature alongside the research of prison chaplains and prison doctors when Victorian criminology is assessed. Dewar penned several respected articles on the causes of crime, as well as textbooks on the licensing laws. For over two decades he gathered data on local habitual offending and considered, in print, the approach taken towards recidivism throughout Britain, Europe and the Colonies.¹¹³³ Given the long tradition of the judiciary in shaping criminal justice policy it is unsurprising that, in the period, a number of Dundee's judges also published papers on criminality and presented their findings in public lectures.¹¹³⁴ Sheriff Ogilvy is a good example. He had called for a retreat for inebriates at least thirty years before legislation was passed to this effect. Ogilvy was far from being alone; a survey of national newspapers indicates that up and down the country criminal justice practitioners wrote about and lectured on criminological issues.¹¹³⁵ There is not the opportunity to discuss the evidence here, but patterns found in the local archives suggest that the ideas of criminalists, like Chief Constable Dewar and Sheriff Ogilvy—that had much in common with social reformist opinion—had a greater practical influence on the sanctioning of female recidivists than any

But as Johansen recognises terms were used loosely and inconsistently in the period: 'Review of 'Criminals and their Scientists'', p. 159.

¹¹³³ DLHC D9776, D9244, D5842, D31053, D31057. See also *S'man*, 4th – 5th March 1887, *C*, 7 March 1893, *PJ*, 8 April 1905.

¹¹³⁴ Smith, *Oxford History of Laws*, pp. 12-13, King, *Crime and Law in England 1750–1850*, pp. 4, 12.

¹¹³⁵ *S'man*, 1 July 1913, *C*, 25 August 1873, 19 December 1893, 8 July 1893, 1 October 1897, 1 May 1866. In Newcastle an examining magistrate was described as a 'noted criminalist' who 'like the bee ... sipped from every flower' in order to utilize sociological research from around the world: *The Newcastle Weekly Courant* 11 February 1893. Judge Edward Parry's book, *The Law and the Poor* (1914), which discussed the causes of crime, was originally serialized in *The Sunday Chronicle*. Articles on crime by police and judges also appeared in *The Police Chronicle*, *The National Association of Probation Officers*, and *The Magistrate*.

guidelines from prison scientists. Our priority is to summarize the implication of our findings on historical criminology.

6.1 f) Challenges to Established Scholarship

In Chapter 4 it was shown that the leading studies portray Victorian and Edwardian criminal discourse as highly discriminatory of women offenders. According to the established scholarship, contemporaries who enquired about female criminality were focused on finding biological reasons for female waywardness, and their attitudes were heavily bound by the stereotype of women as passive and nurturing. It is conventionally argued that women offenders were deemed to be worse than their male counterparts and incapable of rehabilitation because they were perceived to be maladjusted in a way that male offenders were not. In Chapter 4 we also saw that scholars have been in no doubt that, in the period, contemporaries accepted this Lombrosian-inspired discourse. It was on the basis of the majority premise that women offenders were treated differently to men that it was anticipated that the gendered pattern in Dundee's recidivism records would be explained by the discriminatory treatment of women. The local evidence, however, challenged the double deviance theory and raised questions about the value attributed to prison science.

This chapter has revisited the discussion of the female crime discourse in Chapter 4, it has demonstrated that Dundee's police, magistrates and press actively rejected the ideas usually associated with nineteenth-century criminology, and that they were more likely to align themselves with the social reformers' response to recidivism. Because the Dundonian findings are reflected elsewhere, it seems that it may have

been common for Victorian and Edwardian criminal justice practitioners to dispel sexist prison science. Clearly the extent to which the experience of the female offender was informed by a wider criminological narrative, than has been hitherto defined, is a key question for future research.

In face of the separation between Dundee's criminal justice practitioners and those who understood female criminality in psychological and biological terms it is not surprising that, in Chapter 5, we were unable to find evidence that Dundee's criminal justice practitioners were influenced by the misogynist attitudes associated with prison science. Having rejected the idea that police and judicial discrimination can wholly explain the gendering of the recidivism records, the remainder of this chapter will consider what other factors may account for the gender anomaly in Dundee's crime records.

6.2 Possible Factors Implicated in the Female Dominance of Dundee's Recidivism Records, Other than Discrimination by the Criminal Justice System

The reason ... is not very apparent and the subject is too wide to be comprehensively treated here ...[but] somewhere or other, there is a breakdown in the machinery which has been set in motion for the purpose of benefiting the women of our criminal classes... [w]ho is there among us who can point out the defect?

This was how, in 1901, M. F. Johnston concluded his paper on the 'curious fact' that 'the tendency to become habitual criminals is far greater among' women than men.

¹¹³⁶ Chapter 5 confirmed that the most obvious reason for the female dominance of

¹¹³⁶ M F Johnston, 'The Life of a Woman Convict', *Fortnightly Review*, 1901, pp. 566-7.

Dundee's recidivism statistics—discrimination by the criminal justice system—does not tell the whole story. The final part of this dissertation, using evidence uncovered during the judicial research, outlines some of the other factors that Johnston and his contemporaries associated with the recidivist pattern, and, as in previous chapters, uses modern scholarship to open up possible interpretations of the surviving sources. That a great number of commentators pointed to manifold defects in the management of female prisoners will be highlighted, but the section starts with the seemingly less recognised view that Victorian and Edwardian women were at a disadvantage much earlier in the correctional process, as a result of their poverty.

6.2 a) 'Detention Causes Recidivism': Prison and the Habitual Offender

In 1894 convicted offenders were given 1 hour 30 minutes to find the money to pay their court fine – during that time they sent messages from the police court to family and friends asking for help.¹¹³⁷ No quantitative evidence has survived to show whether Dundee's women offenders were less likely than men to be able to produce the money in time, and consequently more likely than their male counterparts to serve a prison term.¹¹³⁸ A few fragmentary qualitative sources, however, suggest this was the reality. Dr Lennox, for example, complained that the court fines hit wives and children the hardest, as household budgets were raided to release drunken fathers from the threat of incarceration.¹¹³⁹ And supportive kin may explain why, of the three men and two women convicted of breach of the peace in the same incident in 1870,

¹¹³⁷ *RHO*, 12,932, 12, 940.

¹¹³⁸ Similarly Lee finds in Kent that it is not possible to tell from the records whether a fine was paid or whether a custodial sentence was served instead: 'Regulating Prostitution in Nineteenth-Century Kent: Beyond the Contagious Diseases Acts', p. 152.

¹¹³⁹ Lennox, p. 27.

the men were able to pay their fines ‘but the females went to prison’.¹¹⁴⁰ It is not entirely surprising that in a city with very high levels of male unemployment women’s fines went unpaid, for wives and children were in a better position than fathers and husbands to be able to obtain the sum in time. A number of sources also call into question the willingness of men to support their wives. These were referred to in passing in Chapter 1 but here they receive fuller attention.

‘[I]n those days women served men’, was how an ex-spinner recalled the city’s social set up in the period of this research.¹¹⁴¹ According to an official in 1902, ‘women had to work or starve, as their husbands neither [did] their duty to them nor their children’.¹¹⁴² The newspapers provide ample examples of such men. Mrs Keenan, for example, supported her three children since her husband ‘worked very seldom’ and when he did all she ‘could squeeze out of him was 2s 10d.’¹¹⁴³ And in the same sitting of Dundee’s Sheriff Court, in June 1885, there were four wives deserted by their husbands. Margaret McPherson or Cook had been ‘left to struggle for eight of a family and to feed and clothe them’. Mary Ann Mackie or Kingsman was doing all she could to bring up her three children but had been refused relief by the parochial board since the father was working. He, like Mrs Dailly’s husband, spent all his wages on drink and failed to pay aliment for his two young children. Margaret Baird or Sparks, a sacksewer, also ‘got nothing’ from her husband ‘for he spent almost every farthing [of his wages] on drink’.¹¹⁴⁴

¹¹⁴⁰ *WN*, 24 September 1870 similarly 9 October 1886.

¹¹⁴¹ Gordon, *Women and the Labour Movement in Scotland 1850-1914*, p. 164

¹¹⁴² *C*, 2 December 1902.

¹¹⁴³ *WN*, 30 June 1900.

¹¹⁴⁴ *WN*, 17 June 1885, similarly 15 March 1890, 12 August 1879, 29 August 1885, 28 July 1900, 28 February 1880.

When considering the payment of fines it is relevant that the overwhelming theme of the city's oral history testimonies is that men *acted* as the heads of household.¹¹⁴⁵ We see this too in Dye's stories of working-class life in the city. Unemployed fathers and husbands are authority figures, eating first and receiving the largest meal, even though their wives and daughters work in the mills.¹¹⁴⁶ So perhaps a wife was expected to pay her husband's court fine, if she could. A study of domestic violence presents a starker picture of the gender dynamics that may have influenced the paying of fines by working women. According to the court report when Mrs Keenan (as mentioned above) 'could not provide' her husband with 'a couple of shillings' for drink 'he seized her by the hair of her head, threw her down on the street, and kicked her'.¹¹⁴⁷ And the court heard how thirty-three-year-old James Hay 'often came and annoyed' his mother for money. On having been refused 'he struck her, breaking one of her teeth' and then attacked the neighbour who was trying to assist her.¹¹⁴⁸ These cases suggest that at least some of the city's men would have spent money on drink rather than spare their wife (mother or sister) a prison term.

Elsewhere there are also hints that women paid their menfolk's fines. J. Carswell, for example, writing in *The Journal of Mental Science*, in 1901, thought that the disproportion of women in inebriate reformatories was because men were more likely to pay their police fine and thereby to escape 'the system'.¹¹⁴⁹ Fingard similarly

¹¹⁴⁵ DOHP, 011/A/1.

¹¹⁴⁶ Dye, *Tales of Old Dundee*, pp. 29-30.

¹¹⁴⁷ WN, 30 June 1900.

¹¹⁴⁸ WN, 26 June 1886. It was also commonplace for women to be assaulted when they asked the fathers of their children for money.

¹¹⁴⁹ Citing J Carswell, 'The working of the Inebriates Act', October 1901 pp. 1-14, Dobash and McLaughlin, 'The Punishment of Women in Nineteenth-Century Scotland: Prisons and Inebriate Institutions', p. 83. See also D'Cruze, *Women, Crime and Justice in England since 1660*, p. 136. And Weaver, *Crimes, Constables and Courts*, p. 58.

believes Halifax women were poorer than male offenders and that they were usually unable to pay the optional fine awarded in court.¹¹⁵⁰ Perhaps the local conviction statistics spanning the years 1871–1895 do not record that the police were more likely to take drunken and disorderly women before the magistrates, as was suggested in Chapter 5. It may be that a greater proportion of men escaped because they could pay the police fine.¹¹⁵¹

If, by paying a fine, a male offender was able to avoid prison his life chances were probably much better than his female counterpart who was forced, by poverty, to go to gaol. This was because, in the words of Michel Foucault, '[d]etention causes recidivism'.¹¹⁵² Sociology's secondary labelling theory also suggests that sending an offender to prison may further criminalize her as she develops values at odds with mainstream society.¹¹⁵³ And there is ample local evidence to indicate the relevance of the sociologist's research to the past.

As early as 1866 Dundee's Sheriff Ogilvy told a meeting of JPs that prison was not a reformatory institution for habitual drunkards,¹¹⁵⁴ and throughout the second half of the nineteenth century numerous officials complained that imprisonment only increased the appeal of drink and entrenched criminality.¹¹⁵⁵ Mr William Clarke, for

¹¹⁵⁰ Fingard, *The Dark Side of Life in Victorian Halifax*, p. 36.

¹¹⁵¹ The figures and calculations are shown in Appendix 5.2. See also Monkkonen for discussion of how the dismissal rate can measure police harassment: *Police in Urban America*, p. 84.

¹¹⁵² Foucault, *Discipline and Punish*, p. 265.

¹¹⁵³ Jock Young, 'Moral Panic its Origins in Resistance, Ressentiment and the Translation of Fantasy into Reality', *British Journal of Criminology*, 49 (2009), p. 7, Nye, 'Crime in Modern Societies', p. 493, Blackburn, *The Psychology of Criminal Conduct: Theory, Research and Practice*, p. 88.

¹¹⁵⁴ C, 1 May 1866.

¹¹⁵⁵ C, 25 August 1873, 5 January 1893, *RHO*, 6934.

example, Deputy Governor of Perth Prison, with thirty years' experience of working with petty offenders, told a government commission that when girls and women were imprisoned for importuning each committal rendered them 'more reckless and abandoned'.¹¹⁵⁶ Similarly Mr Miller, Superintendent of Glasgow Police, explained that offenders came out of prison 'really in a more hardened state than before, and with a deeper sense of their destitute condition'.¹¹⁵⁷ A common view in Scotland, and one expressed by Dundee's Chief Constable Dewar, was that prison compounded recidivist behaviour by stripping prisoners of hope and self worth.¹¹⁵⁸ Commentators also believed that with each prison sentence the defendant's desire to reintegrate into society reduced.

Dewar's observation, that women seemed fonder of their prison quarters than men, cited in Chapter 4, might have been true.¹¹⁵⁹ Sources record that many women offenders did not associate prison with dread; rather it possessed a comforting familiarity.¹¹⁶⁰ This was the theme of Dr Cameron's speech, in 1877, to the Glasgow branch of The British Medical Association. He observed that the 'utter incompetency' of 'the repressive influence of our criminal administration' was abundantly demonstrated by:

the unmoved manner in which "Mag Gow" [of Dundee] and her class ... come to look upon the gaol as one of the elements in their lives ... [and how they] accept their "sixty days" with a cheerful acquiescence.¹¹⁶¹

¹¹⁵⁶ *RHO*, p. x.

¹¹⁵⁷ *Edinburgh Chamber's Journal*, 1840, p. 323.

¹¹⁵⁸ *RHO*, 6934.

¹¹⁵⁹ See section 4.2 in Chapter 4.

¹¹⁶⁰ *DYB*, 1885 p. 40.

¹¹⁶¹ *C*, 9 April 1877.

Similarly, according to the 1925 Scottish Prison Report, a forty-nine-year-old female prisoner, with 300 previous convictions for petty offences of the type prevalent in Dundee, was described as ‘quite content in prison’. She had outlived her six children and had no desire for any other life.¹¹⁶² For these women the alternative was probably the poorhouse, where conditions were worse. And it is doubtful that only habitual offenders knew that they would be better off in prison. The large number of women who survived on a diet of bread and tea will surely have appreciated the potatoes and oats on the prison menu.¹¹⁶³ Indeed, in 1864, two Scottish female offenders were apparently overheard discussing how in prison ‘[t]hey take care of ye, and give ye eno’ to eat – more than ye get at hame.’¹¹⁶⁴

As we saw in Chapter 5, several historians argue that prison gave homeless women and prostitutes respite from the perils of the streets, and that its welfare services were deliberately sought well into the twentieth century. When we consider the tenor of women’s lives in the misery and filth of the Dundonian slums it might be that they had more reason than men to actively seek a prison term. The stresses of repeated pregnancies, the worry of raising sickly children, and the terror of a violent partner were all, generally, greater for women.

The age of the offender provides another angle from which to consider the impact of prison on the recidivism records. Unfortunately Dundee’s habitual offending returns

¹¹⁶² *PR*, 1925 p. 509.

¹¹⁶³ *PiSR*, 1875 p. 491: prisoners imprisoned ‘not above 3 days’ received a daily ration of 2 pints of Oatmeal gruel and 1lb of bread. Longer term prisoners received potatoes and barley broth as well as oatmeal.

¹¹⁶⁴ Anon, *Memoirs by Jane Cameron – Female Convict by a Prison Matron in Two Volumes* (London, 1864), p. 350.

do not tabulate age and currently only threadbare qualitative sources shed light on this subject. Nevertheless it is telling that at a conference on habitual offending, in 1913, Bailie Rose was convinced, on the basis of his Edinburgh research, that the reason for the female dominance was that ‘women could stand the strain of dissipation longer than men; [because] the truth was that men died off sooner from the effects of dissipation’.¹¹⁶⁵

Women have long been associated with greater longevity, but it seems unlikely that Dundee’s recidivism statistics *merely* reflect natural mortality. As Chief Constable Dewar described, in 1893, prison was a ‘recuperative system’ and those who spent alternative weeks incarcerated benefited not only from their curfew from alcohol but from the medical care and food they received whilst inside.¹¹⁶⁶ This was a factor highlighted by London police-court missionary Thomas Holmes, when he argued that the short sentences enabled drunken women to ‘live beyond their more virtuous and industrious sisters’.¹¹⁶⁷ By following the trajectory discussed earlier—that men were more likely to be able to pay their court fine—we may speculate that the men’s uninterrupted heavy drinking meant that their health deteriorated faster than their female counterparts. In this way, as a side effect of serving so many prison terms, women may have had longer criminal careers, hence more time to amass scores of convictions. Paradoxically we must also attach credence to the evidence that prison was potentially more psychologically damaging to women than men.

¹¹⁶⁵ *S’mam*, 1 July 1913.

¹¹⁶⁶ *C*, 7 March 1893.

¹¹⁶⁷ Morrison, ‘Ordering Disorderly Women’, p. 243.

For the criminalist W. D. Morrison it was ‘important to keep men as much as possible out of prison’, but it was ‘doubly necessary to keep out women’. He argued that once a woman had been ‘shut up with bolts and bars [she] was much more likely to be irretrievably lost than a man.’¹¹⁶⁸ M. F. Johnston also considered the penal system to be more destructive to women, observing in his 1901 paper:

the discipline of the prison does not produce such happy results among the women as it does among men... Inasmuch as they are widely different in constitution and temperament, can it reasonably be expected that one and the same remedy will suit both cases? Undoubtedly a course of strict discipline is beneficial to men belonging to the lower orders ... [But for a woman] [t]he habit of merely obeying orders without question, and the fact of her never having had to make a decision for herself, render her incapable of steering a straight course when she regains her liberty.¹¹⁶⁹

There are hints in the local newspapers that some of Dundee’s female jailbirds were institutionalised, and unable to cope without prison’s highly disciplined regime as a result of serving repeated sentences.¹¹⁷⁰ For example, Dewar recounted the sad story of a woman who had drowned herself in the Tay. She had spent about twelve years in prison, where she had shown skill in ‘remunerative needlework’; the Chief Constable believed that she could not adapt to life in the community, presumably it did not help that there were few opportunities for her trade in Dundee.¹¹⁷¹ A writer in *The Edinburgh Review* pointed out that one of the disadvantages experienced by women in the prison system was that the training they received did not provide them with a ‘fair chance of redemption’. She also highlighted the punishments’ system had a

¹¹⁶⁸ Morrison, *Crime and its Causes*, pp. 161-62.

¹¹⁶⁹ Johnston, ‘The Life of a Woman Convict’, p. 567.

¹¹⁷⁰ For a similar view see Jones, *Capital Punishments: Crime and Prison Conditions in Victorian Times*, p. 30.

¹¹⁷¹ *RHO*, 13,043.

damaging effect on the women's health without any good effect.¹¹⁷² Indeed, the records show that Dundee's female prisoners routinely suffered a 'reduction in diet' as a penalty for their behaviour in gaol.¹¹⁷³

Today, for a whole host of reasons, feminist scholars argue that life is more traumatic for female ex-prisoners than male. They believe that women find the experience of the courtroom and prison more traumatic. In particular researchers highlight how women, far more than men, suffer anxieties about home and children, and their stress often leads to the development of physical and mental illnesses compounding their existing problems.¹¹⁷⁴ It is hard to trust the impartiality of the historical evidence concerning the mental health of Victorian prisoners, but we can imagine that those serving long sentences will have agonised over the fate of their children given that they were not allowed visitors in the first three months of incarceration. The case of Ann McCafferty, who, it will be recalled, was released from prison to learn that her husband had taken up with another woman, her two daughters were in an industrial school and her seven sons could not be found, captures the destruction of family ties caused when a Dundonian woman was incarcerated in Perth gaol for nine months.¹¹⁷⁵ It is not unreasonable to speculate that it was typical for such offenders to lose touch with loved ones when the cost of the journey was probably beyond the reach of the majority of the city's working-class families. The feminist perspective also raises

¹¹⁷² Morrison, *Crime and its Causes*, pp. 161-62.

¹¹⁷³ *PR*, 1905 p. 231. In 1905 112 women receive this punishment.

¹¹⁷⁴ Martin, 'What Works for Women?', p. 879, Zedner, 'Women, Crime, and Penal Responses', p. 351, McMillan, 'Gender, Crime and Criminal Justice in Scotland', pp. 92-93. Today self-harm and suicide attempts remain more frequent in women's prisons than men's.

¹¹⁷⁵ *WN*, 21 February 1880, the case was discussed earlier in this chapter.

another possible psychological influence on the careers of habitual offenders: that female drunks suffered greater internal agitation than their male counterparts.

6.2 b) ‘A Woman’s Past has a Far Worse Effect on her Future Than a Man’s’

Sociologists tell us that the problems caused by women drinking too much differ from the problems of their male counterparts. Firstly, they argue that the conflicts that women experience within themselves differ from men’s. For the woman, ‘internalised shame’ and discontent become disempowering emotions since not only are they suffering problems with alcohol, but they have also violated the norms of femininity. And as a woman becomes increasingly psychologically or physically dependent upon alcohol the more difficult it is for her to escape these negative feelings. Secondly, sociologists consider that women are more harmed by their drunkenness than men because they experience greater social rejection.¹¹⁷⁶ As was discussed in Chapter 5, whereas masculinity (and virility) is promoted through drink, a woman loses her femininity and reputation to the bottle.¹¹⁷⁷

From the evidence uncovered by this study it seems that contemporaries observed significant symptoms of psychological damage in female offenders. Dundee’s Dr Lennox, for example, reasoned that women were more apt than men to become habitual offenders because ‘with the loss of self respect and self control they yield more freely to the temptation of living a habitually vicious life’.¹¹⁷⁸ We note too that the city’s Prison Aid Society was concerned that female habitual offenders were of the view ‘that society had ceased to believe in the possibility of their doing better, and

¹¹⁷⁶ Elizabeth Ettorre, *Women and Alcohol a Private Pleasure or a Public Problem?* (London, 1997), pp. 9, 14, 38 56, 63-64.

¹¹⁷⁷ See Section 5.2(b).

¹¹⁷⁸ Lennox, p. 371.

had ceased to interest itself in them'.¹¹⁷⁹ Both these sources infer that social stigma damaged a female offender's life chances. W. D. Morrison made the point directly when he wrote that '[a] woman's past has a far worse effect on her future than a man's. She incurs a far graver degree of odium from her own sex.'¹¹⁸⁰ And as was shown in Chapter 4, there can be no doubt that prostitutes were outcasts from respectable Dundonian society as a result of their criminality, drunkenness, and occupation. Elsewhere historians similarly find that Victorian prostitutes saw themselves as outcasts with no way to remedy their 'fall', and, believing themselves barred from respectable society, they felt compelled to stay on the streets.¹¹⁸¹

Morrison drew attention to the fact that women convicts found it much more difficult than men to 'get into the way of earning an honest livelihood.' He was probably referring to the fact that a woman was dependent on a character reference for gaining employment in domestic service.¹¹⁸² At this point no local sources have been identified relating the male experience, and statements around women are contradictory. In 1891 Dundee's Prison Aid Society complained that many textile manufacturers 'objected' to giving a confirmed offender work.¹¹⁸³ Likewise, in 1921, Dundee's Police Sister believed that 'girls who have been in trouble ... have not very much chance of getting [work] ... unless they can get someone who takes a little

¹¹⁷⁹ *PR*, 1915 p. 425.

¹¹⁸⁰ Morrison, *Crime and its Causes*, pp. 161-62.

¹¹⁸¹ Gráinne Blair, "Equal Sinners": Irish Women Utilising the Salvation Army Rescue Network for Britain and Ireland in the Nineteenth Century', in Alan Hayes and Diane Urquhart, eds, *The Irish Women's History Reader* (London, 2001), p. 143, Finnegan, *Poverty and Prostitution*, p. 166 also Carlen, *Gender, Crime and Justice*, p. 19, Ettorre, *Women and Alcohol a Private Pleasure or a Public Problem?*, p. 6,

¹¹⁸² Zedner, *Women, Crime and Custody*, pp. 5, 54 citing W. D. Morrison in *Crime and its Causes* (1891).

¹¹⁸³ *C*, 22 January 1891.

interest in them'.¹¹⁸⁴ Lennox, on the other hand, at the turn of the century, understood that avenues of employment were not closed to female offenders, as the city's mills welcomed 'all women who are willing to work'.¹¹⁸⁵ Probably the chance of an ex-prisoner finding employment varied from mill to mill and was influenced by the state of the economy as well as her work history.

As was discussed in Chapter 5, female drunks appear to have been isolated from the vital mutual aid arrangements that may have helped them break their cycle of offending. Another possible reason behind the high proportion of women recidivists is that male drunkards benefited from greater familial support. Today when a man has a drink problem sociologists predict that his wife will probably stay with him, encourage him to eat and generally look out for his welfare. In contrast, the research suggests that a female problem-drinker is likely to see her relationship fail – leaving her alone to manage as best as her addiction allows.¹¹⁸⁶

We can speculate that, in the period of this study, Dundee's demography encouraged women to be loyal to husbands discharged from prison since, as one contemporary remarked, 'there was too many women [in the city]. There wis nae enough men, so when ye got a lad you had tae hing on tae him, or some ither body stole him'.¹¹⁸⁷ And incidentally, the energy required to keep a home and look 'after a bluidy boozy man!' was raised by a woman interviewed for the city's oral history project.¹¹⁸⁸ Despite the disproportionately large number of households headed by women in the city—in 1901 the proportion of women households was 12,000 from a total of 37,000—single

¹¹⁸⁴ *PJ*, 26 February 1921.

¹¹⁸⁵ Lennox, p. 371.

¹¹⁸⁶ Plant, *Women and Alcohol Contemporary and Historical Perspectives*, pp. 75-76.

¹¹⁸⁷ Kay, *Odyssey*, p. 38: that is, there wasn't enough men, so you had to hold on to your boyfriend / husband or else someone else would steal him from you.

¹¹⁸⁸ Kay, *The Dundee Book*, p. 8.

females living without males were described as ‘unnatural’ and even ‘vicious’.¹¹⁸⁹

The sentiment in the popular song *Auld Maid in a Garret*, ‘come ony men at a’ that’ll marry me for pity’, may explain why it was common for men to live with a second woman as if she were his wife.¹¹⁹⁰ Furthermore, the numerous cases heard against local women who had falsely told the registration authorities that their babies were legitimate is a reminder of prejudice against single mothers, despite the often remarked upon shortage of men.¹¹⁹¹ As a result of the demographic imbalance, a culture may have developed that encouraged women to support their drunken partners.

Ironically, given that Dundee was dominated by and dependent upon its female workforce, services for women seem to have been an afterthought. The chronic housing shortage was discussed in Chapter 2. When considering the criminal careers of women, it needs to be emphasized that the lack of accommodation appears to have been less of a problem for men. As *The Piper* observed in 1899, ‘[i]n a city like our own provision has always been made for the proper housing of men. The women [though] have been let severely alone, and allowed to drift, hither and thither – some of them, indeed, neglected and forlorn’.¹¹⁹² It is also pertinent that women offenders appear to have received less official help than their male counterparts. Chief Constable Dewar repeatedly called for a ‘Home for Discharged Female Prisoners’ lamenting that, ‘having nowhere to spend the night’ and ‘no one to take them by the

¹¹⁸⁹ Gordon, *Women and the Labour Movement in Scotland 1850-1914*, p. 142, Walker, *Juteopolis*, p. 41.

¹¹⁹⁰ Kay, *Odyssey*, p. 38: the plea was for any man at all. During the research I found records of the trials of male bigamists but there was insufficient opportunity to determine whether male bigamy was more common in Dundee than elsewhere.

¹¹⁹¹ For example SC45/37/61.

¹¹⁹² *Piper*, 8 February 1899.

hand', they were often 'in a hurry to return to the relative 'comfort' of prison''.¹¹⁹³

The reason that there was a home for male ex-prisoners long before there was one for women was probably because men committed the majority of crime in the city and so were deemed a greater cause of concern to the authorities.¹¹⁹⁴

Most contemporaries, who looked beyond biology for an explanation of women's proclivity to reoffend, highlighted that the consequences of having a criminal record were more destructive for women. There is not the opportunity to include a detailed discussion of female crime in Dundee beyond 1925, but the police returns between 1926 and 1939 provide a fascinating snapshot of a shift in recidivist offending that augments the contemporaries' concerns about women's ability to reintegrate into society. The returns from 1926–1932 continue to demonstrate that the most hardened habitual offenders were women. However, in 1933 there were more male than female serial recidivists. In 1934 women again dominate the police records, but in the years 1935–1939 the pattern changes and the majority of hardened recidivists are men (Appendix 6.1). Arrests for importuning appear to have remained low from 1915, hence the policing of soliciting cannot account for the inter-war reversal (Appendix 6.2). Rather the evidence suggests that there may have been a genuine decline in the number of women defined as habitual drunkards. In 1936, for example, Chief Constable Neilans reported that there were more *male* habitual drunkards in the city than women. He was referring to the 40 men and 20 women 'confirmed methylated spirit drinkers' who appeared before the courts at regular periods.¹¹⁹⁵ If the criminal justice system was more destructive for women than men, the changes in the early

¹¹⁹³ *PoR*, 1878 p. 8.

¹¹⁹⁴ A male's home was established in 1873.

¹¹⁹⁵ *PoR*, 1936 p. 25.

decades of the new century that saw the introduction of probation (including for habitual offenders) and the extension of the time defendants had to pay their fine—both of which affected a reduction in the number of prison terms women served—would account for something of why, by the late 1930s, women were no longer likely to be the city's most hardened recidivists.

We shall now turn to a quite different range of factors that may also have played a role in the female dominance of Dundee's recidivism records.

6.2 c) The Women Drew a Crowd

The evidence is tantalisingly obscure; nevertheless it is possible that a reason why there were so many women recidivists was that Dundee's female drunkards were a disproportionately large source of public disorder. In November 1869 Margaret Gow was tried, for the tenth time, for assault. At the sheriff court her defence lawyer described how young boys had thrown horse manure at her and teased her. Bailie Steward thought the torment of the boys explained, as Gow had said herself, why she was at the police court (and on this occasion she was found not guilty by the jury on judicial advice).¹¹⁹⁶ A great many of the surviving court reports indicate that the police may have re-arrested a disproportionate number of women recidivists because their antics were more likely to draw a crowd than their male counterparts. Certainly it appears the police were forced to arrest habitual drunkard Jessie Troupe or O'Conner to restore the peace. She was found 'sitting on her knees' in the snow around midnight, 'cursing and swearing' and refusing to get up, with 'a crowd round

¹¹⁹⁶ C, 9 November 1869.

her in Bell Street' – the location of Dundee's main police station.¹¹⁹⁷ Similarly, the recidivist Ann Lawson's 'great noise' in the Greenmarket 'attracted a large crowd'.¹¹⁹⁸ The fact that the court reports frequently mention the existence of a crowd in breach of the peace cases indicates that it was a necessary feature in the police bringing a charge.¹¹⁹⁹ And it is reasonable to suppose that the police prioritized charging offenders who were attracting attention given that crowds could swell and their mood turn angry. The authorities would have been particularly aware of this in areas where bystanders were known to interfere when the police made arrests.

Why did the women draw a crowd? We need to consider whether women were *actually* more disorderly than the men. Equivalence of behaviour is impossible to establish, and, as was discussed in Chapter 5, we do not know if the same standards of disorder were required of men and women in order to be arrested. Conley, however, found Victorian evidence of women behaving worse than the men.¹²⁰⁰ Tackling 1900–1939 Klein observed that intoxicated women caused the police more problems than men, as they tended to beat at constables, and Hunt, Mellor and Turner also found contemporary evidence that women were 'worse' drunks than men.¹²⁰¹ Given that this study contends that discrimination against female recidivists cannot fully account for their disproportionate position in the crime statistics it is worth quoting the reformatory inspector who believed that the dominance of women in inebriate

¹¹⁹⁷ *WN*, 19 March 1887.

¹¹⁹⁸ *WN*, 13 May 1871.

¹¹⁹⁹ *WN*, 3 July 1875, 20 March 1875, 20 March 1880, 6 March 1875, 17 July 1875, 28 February 1881, 21 August 1886, *DA*, 28 July 1865.

¹²⁰⁰ Carolyn A Conley, 'No Pedestals: Women and Violence in Late Nineteenth-Century Ireland', *Journal of Social History*, 28 (1995), p. 803.

¹²⁰¹ Klein, *Invisible Men*, p. 180, Hunt, et al, 'Wretched, Hatless and Miserably Clad', p. 248.

reformatories could be explained by the ‘difference between the effect of alcoholic excess upon men and women’. For R. W. Braithwaite:

A drunken women nearly always become hysterical, laughs or dances, or sits on the pavement and screams. She ‘goes for’ her drinking companion on the slightest provocation and a policeman has an attraction for her which she cannot possibly resist. A drunken woman quietly wending her way homewards is a sight rarely to be seen ...[Conversely] [h]ysterical frenzy is the exception rather than the rule in the case of the drunken man; he usually plods and struggles homeward with dogged determination, sometimes morose and surly.

Braithwaite continued that a ‘semi-drunken man’ was often successful in getting a drunken friend home quickly, but that this was a ‘rare occurrence’ where women were concerned.¹²⁰²

Local evidence, confirming that some female drunkards taunted the police and left officers with little option but to bring a charge just to be rid of them, was discussed in Chapter 5.¹²⁰³ The city’s crime records also show that Victorian and Edwardian prostitutes created night-time disturbances and were drunk and abusive in broad daylight. Moreover, the newspapers provide hints of a Braithwaite-style characterization of women drunks. *The Weekly News*, for example, remarked in 1880 on the noise produced by tipsy women.¹²⁰⁴ And reports of Margaret Gow appear to support Braithwaite’s theory. She was said to be ‘[n]aturally of a peaceful and taciturn disposition’, but under the spell of “‘fechtin’ whisky” became ‘exceedingly loquacious and quarrelsome’.¹²⁰⁵ *The Weekly* provides a typical example of her behaviour. In November 1876 she had gone into a public house on a Tuesday afternoon ‘where she had behaved in such a noisy manner’ that the police were called

¹²⁰² Cited in Hunt, et al, ‘Wretched, Hatless and Miserably Clad’, pp. 247-248.

¹²⁰³ For more see Morrison, ‘Ordering Disorderly Women’, pp. 225-6, 235.

¹²⁰⁴ *WN*, 11 December 1880.

¹²⁰⁵ Lamb 216 (59).

‘to put her out’. ‘On reaching the street she commenced cursing and swearing, and although again remonstrated with she refused to be quiet, and had to be taken in custody’.¹²⁰⁶ The same fate befell the three women ‘all the worse of drink ... swearing and abusing each other, with a large crowd following them along Overgate’, and by Christian Matloch, whose revelries was also the ‘means of collecting a crowd in the Overgate’ early one Tuesday evening.¹²⁰⁷ Sheriff Ogilvy’s view, discussed in Chapter 3, that a large section of the city’s recidivists were ‘middle-aged women’ who ‘get drunk and *get up a row in the street*’ adds weight to the suggestion that drunken women were most strongly associated with disorder [my italics].¹²⁰⁸ Robert Clement’s behaviour certainly appears in marked contrast. According to *The Courier* ‘this poor unfortunate inebriate’ whenever he found ‘the effects of the liquor becoming too strong for him’ made his way to ‘the Police Office for protection’. There he would ‘stretch himself on a bench inside the lobby’ and was taken care of until sober when he apparently departed without charge.¹²⁰⁹

Modern scholarship provides important backing to the possibility that Dundee’s women were generally the most disorderly drunks. Scientists provide that women are physically more susceptible to the debilitating effects of alcohol than men. After drinking the same amount, a woman will have an alcohol tissue concentration one-third higher than a man of the same weight, and the time it takes for her blood-alcohol level to return to zero will be one-third longer than her male counterpart. The different way that drink is metabolised by the sexes also causes women to develop alcohol

¹²⁰⁶ *WN*, 12 March 1870.

¹²⁰⁷ *WN*, 3 July 1875, *DA*, 28 July 1865.

¹²⁰⁸ *C*, 1 May 1866.

¹²⁰⁹ *C*, 25 July 1879.

addiction at lower levels of consumption than men, and to relapse on smaller doses. What is more, scientists are convinced that women experience acute alcohol withdrawal for years.¹²¹⁰ Put simply, it is the combination of a woman's smaller stature, her body's lower water content, her longer gut-transit time, her hormones and her higher percentage of body fat that cause her to get drunk faster, stay drunk for longer and to suffer greater problems with addiction than a man.¹²¹¹ With this in mind, it seems it was apt for Johnston to highlight, in his paper, how few women could 'overcome' a drink habit.¹²¹² Likewise, Dundee's *Advertiser* probably had cause to note that 'the alcohol habit, once indulged in, rarely leaves a woman'.¹²¹³

6.2 d) 'Aye Ye May Well Look at Me'

[W]omen come out of gaol to a world that has even less to offer than the prison itself. Depressed and alone, some then sink into a despair in which they become careless of what happens to them. They re-offend and the circle repeats itself again and again.¹²¹⁴

This is how sociologists describe the situation facing today's women ex-prisoners, and it may be that many of their nineteenth-century counterparts felt similarly alienated. At this stage we do not know why female offenders were more likely than their male counterparts to become hardened recidivists, but this sense of alienation appears to be one of numerous interlinking factors. Another possible cause is that

¹²¹⁰ Ettorre, *Women and Alcohol a Private Pleasure or a Public Problem?*, p. 45.

¹²¹¹ Research from University of Missouri-Columbia and comment by Action on Addiction <http://news.bbc.co.uk/go/pr/fr/-/hi/health/3111718.stm>, [published 2003/09/16] also Plant, *Women and Alcohol Contemporary and Historical Perspectives*, pp. 73, 69-70, R K Foster and Marriot, H E, 'Alcohol Consumption in the New Millennium-Weighing up the Risks and Benefits for our Health', *British Nutrition Foundation*, 31 (2006), p. 300.

¹²¹² Johnston, 'The Life of a Woman Convict', p. 567.

¹²¹³ *DA*, 13 November 1903.

¹²¹⁴ Carlen, *Gender, Crime and Justice*, p. 188.

women were forced, through poverty, to serve more prison terms than male offenders. This was because family members clubbed together to pay their menfolk's court fines but were less likely to do so for women. It is perhaps not surprising that, in a city with very high male unemployment, husbands were often unable to access funds to liberate their wives. And this is to say nothing of the reputation of the men of the labouring class as selfish and inadequate.

It is also relevant for our purposes that several local and national commentators believed that once a woman had served time in prison her social and economic difficulties generally escalated beyond those of her male counterpart. On being labelled an offender she suffered a greater loss of self-esteem—a consequence of the stereotyping of her sex—and was more likely to be a social outcast. In a city dominated by poverty, unreliable women were isolated from the tenements' mutual aid arrangements. Without access to this informal support, ex-prisoners were forced to turn to the poorhouse, to beg or to steal – actions that held them fast in prison's revolving door. We can also speculate that on their release male ex-prisoners routinely enjoyed the support of female friends and family. A woman once imprisoned, on the other hand, seems to have found it harder to alter her social and economic position because of the difficulties finding accommodation, food and a foreman willing to give her work. In the face of these disadvantages, as Dewar explained, they might have sought to return to the security of prison. As for the official sources of help for ex-prisoners, women it seems were an afterthought. What is more, the evidence suggests that the more frequent incarceration of female recidivists may itself have contributed to the pattern of recidivism in the city. Because

women were separated from alcohol oftener, their health was better, and as a result they outlived their male counterparts and carried on offending for longer.

The interdisciplinary approach guided our research of the criminal justice system in Chapters 4 and 5. Social science offers many more explanations for the gender difference in Dundee's recidivism records. A feminist perspective highlights that women may have faced a higher risk than men of being institutionalised by the prison system. Firstly, this was because incarceration offered many advantages not available to women on the outside and secondly, prison was more destructive to the female psyche. Separation from their children and habituation to a highly disciplined regime, modern scholarship suggests, will have compounded the women's physical and mental health problems to such an extent that with each spell of incarceration they became increasingly unable to cope with life on the outside. The scientists' finding that the metabolism of alcohol differs between the sexes and that women are 'particularly susceptible' to its debilitating effects appears to justify the Victorian commentators who considered that women recidivists *really were* a greater nuisance to society than their male counterparts, and that women really were the *most* intractable offenders.¹²¹⁵

6.3 Conclusions and Further Research

This chapter has highlighted a number of influences on Dundee's recidivism records, but because of the weaknesses in the evidence all we can conclude at this stage is that a combination of police discrimination and complex social, psychological and legal

¹²¹⁵ <http://news.bbc.co.uk/go/pr/fr/-/hi/health/3111718.stm> [accessed 12 January 2011].

processes appears to hold the answer to the fascinating question why the city's most serious recidivists were women.

This study has only been able to look in detail at the impact of policing, the judiciary and the influence of contemporary criminology on the experience of female habitual offenders in the decades 1865–1925. It is only by expanding the research that greater insights into the recidivists' position can be reached. In view of the evidence of the women's doubtful prospects, research should be undertaken to determine whether the detrimental effects of imprisonment were worse for female offenders, not least because of the vastly different rehabilitation options available to them. And of fundamental significance is the question whether male offenders escaped a prison sentence more often than women by paying a fine. We also need to investigate, as best we can, whether women *were* the more troublesome repeat offenders because they drew a crowd, and our analysis will benefit from looking at the records over a longer term. The fact that short-term prison sentences were no longer used in the inter-war period, to deal with anti-social behaviour, is the most obvious explanation for the reversed position of men and women in the recidivism statistics in the late 1930s.

We might also learn what paths to follow in the archives by exploring the factors associated with today's overrepresentation of Native women in the Canadian criminal justice system. Scholars have discounted the possibility that the disproportion of Native women prisoners is the result of police and judicial discrimination. Instead they emphasise the women's vulnerability to criminal justice processing due to the disproportionately negative impact of poverty, destitution and racism on their lives.

¹²¹⁶ And the Scottish data, showing that more than half of the women convicted of a criminal offence in 2010/11 had previously offended, also provides much to consider. Commissioners, convinced that the courts do not display a bias against women, are persuaded that marked differences between the sexes can explain why this is so. Echoing the Canadian research they report that the lives of women offenders are more chaotic than their male counterparts and imprisonment can have a more deleterious effect on them.¹²¹⁷

If we are to understand the complexity of the Victorian and Edwardian criminological response to the female offender we need a wider definition of nineteenth and twentieth-century criminology, so as to include not only prison researchers and psychology theorists, but also the police and judges writing about crime and crime causation. It is important to have a wider definition because it is only by analyzing the full range of evidence that we will gain a more accurate picture of the attitudes surrounding female criminality. Secondly, having defined contemporary criminology more broadly, we must study the debates within this diverse field of experts, and, in particular, evaluate the effect of the wrangles between crime theorists and criminal

¹²¹⁶ Native women represent only a small fraction of the total population but they are disproportionately represented in prison statistics. It is also interesting to note that 40% of Native women offenders have been arrested 15 times or more: Carol La Prairie, 'Native Women and Crime in Canada: A Theoretical Model', in Adelberg and Currie, *Too Few to Count*, pp. 67-103. Gavigan, 'Women's Crime: New Perspectives and Old Theories', p. 58. Christine E W Bond and Samantha Jeffries, 'Indigeneity and the Judicial Decision to Imprison: A Study of Western Australia's Higher Courts', *British Journal of Criminology*, 51 (2011), pp. 267-273.

¹²¹⁷ *Report of the Commission on Women Offenders*, pp. 18-19, 21. Similarly McMillan argues that women experience poverty, disadvantage, unemployment, marginalization, psychological distress, victimisation and abuse 'to a greater degree and with a disproportionate impact': 'Gender, Crime and Criminal Justice in Scotland', pp. 92-93, 10.

justice practitioners on the operation of the criminal law. Thirdly, we need to recognise the impact of social reformers, such as Charles Booth, on the policing of offenders entrenched in the prison system. When we study a fuller range of sources we find a crime discourse very different to that which was outlined in Chapter 4. We find a crime discourse that is complex, conflicting and contradictory and unwilling to be contained within a single definition, which is what the few scholars, who have attended to the detail of Victorian and Edwardian criminology, have found.¹²¹⁸

¹²¹⁸ Dodge, *Whores and Thieves*, pp. 128, 264, Johansen, 'Review of 'Criminals and their Scientists'', p. 159, Shore, 'Criminality, Deviance and the Underworld Since 1750', p. 124, Garland, 'British Criminology before 1935', p. 58.

Chapter 7

Conclusion: Prisons, Pubs and Pawnshops

‘FROM THE POORHOUSE TO THE PUBLICHOUSE [sic]’ is one of the headlines that inspired the alliterative title of this chapter. It was how *The Courier* accounted for Helen Mcguire Bisland’s court appearance in February 1880. For the previous nine months she had been an inmate of Dundee’s Poorhouse, but having a day’s freedom had made for the pub. We do not know how long it was before the police found her drunk in the street: the press report simply states that an officer charged her under the inebriate legislation and brought her before the magistrate. We read that she was treated leniently by the court and after being warned to avoid indulging in liquor in the future, or else risk a spell in prison, she was dismissed.¹²¹⁹ The newspaper makes no mention of whether she already had a criminal record, but an examination of the city’s criminal statistics suggests that she was as likely to be a recidivist as a casual offender. The fact that she was a poorhouse inmate, tried for drink-related crime, is a clue that she may have belonged to the class of local jailbirds, the ‘outs and ins’, who spent their adult lives cycling between the poorhouse and the prison. That Bisland was tried for drunkenness certainly fits the profile of Dundee’s typical female offender.

This study has shown that in the six decades between 1865 and 1925 thousands of women were convicted in Dundee’s courts. The majority captured in the historical records were between twenty and forty years of age, and were convicted of the crimes of drunkenness, ‘assault, breach of the peace, disorderly conduct’ and petty larceny. It

¹²¹⁹ *WN*, 21 February 1880.

was usually bedding and clothing that they stole and many thefts were motivated by poverty. However the police court reports indicate that female offending was not generally motivated *directly* by want. The theme of the records is that the plunder was traded as a means to procure drink. It seems that women started off their relationship with the pawnshop by trading their own possessions, then they took their husband's and children's things, and it was when their family could no longer be parasitized that they pledged borrowed articles from neighbours. Many were driven to thief on a regular basis to fuel what had by now become a drink habit. We know this because the high court records show that a significant proportion of the recidivist thieves, who were sentenced to penal servitude, blamed their offending on their 'weakness' for drink.¹²²⁰ And so it is the centrality of the pub and the pawnshop, to the context of female criminality in Dundee, which justifies their inclusion in the Conclusion's title.

In Chapter 2, female offending was attributed to women's readiness to resort to fists, but mostly it was attributed to the city's whisky-drinking culture. A pub stood at every street corner: in 1877 for example, the Hilltown slum possessed sixteen public houses. And it was not just pubs that sold drink: licensed grocers were common and here women bought whisky on credit along with their household supplies. There were also the shebeens: they engaged in a thriving trade selling poor quality (often adulterated) alcohol when the license-holders were closed. And these too provided drink on credit, as well as in exchange for everyday (and easily lifted) domestic goods. The archives reveal that when creditors were not forthcoming women were prepared to forego food in order obtain a dram. Even those on parochial relief spent their money on drink, and this may explain why drink-related crimes did not

¹²²⁰ JC26/1869/44, JC26/1882/10, JC26/1884/12, JC26/1866/60. The same story was heard at the police court, for example *WN*, 21 February 1885.

necessarily decline during times of economic depression – a pattern Aspinwall has identified within Irish communities in Victorian Scotland.¹²²¹ Apart from the war years and the very end of the period alcohol was available twenty-four hours a day, seven days a week in Dundee. Given the ease with which the undernourished and underweight could obtain whisky we might have predicted that a substantial body of evidence would link crime with the ‘habitual drunkard’, defined here as the alcoholic offender.

The thesis set out to determine, as far as the sources would allow, the profile of Dundee’s typical female offenders. It has emphasized that a diverse group of women were associated with petty criminality. Generally, however, they shared the social characteristics of the most marginalized sections of society.

Dundee’s jute industry employed predominantly women and the city was a busy port, so it is no surprise that the archives record that scores of mill workers and prostitutes appeared before the city’s magistrates each month. Those who were employed in textiles were typically the casually employed, unskilled, preparatory operatives who were frequently absent from work, or the sweated sack-sewers labouring in the cramped tenements. In keeping with Ellie McDonald’s view that ‘scurrilous fallacies’ surround the historical representation of the city’s ‘unique breed of [jute] women’, Chapter 2 concluded that the contemporary stereotype of the city’s mill girls as a ‘moral blot’ on the landscape was grossly unfair, since it was offenders of ‘No Trade’ and prostitutes who most frequently disturbed the peace.¹²²²

¹²²¹ Aspinwall, ‘Catholic Devotion in Victorian Scotland’, p. 40.

¹²²² McDonald, ‘Dundee Women’, p. 157.

Inevitably some of mill girls turned to the harbour's night-time economy to supplement the pittance they earned in jute. It is impossible to know how many women turned to prostitution on a part-time basis, but it is safe to assume that the police records massively underestimate the number of prostitute-offenders in the city. The frequency with which men reported the loss of pocket-watches, purses and clothing during assignations with women in dark stairways, in the most disreputable parts of the city, leads us to believe that prostitutes frequently stole from clients. And because they were repeatedly before the courts charged with drunkenness, fighting and breaching the peace, it is reasonable to conclude that prostitutes perpetrated a disproportionately large amount of known female crime. Their presence in the dock, though, is not immediately obvious.

In York and Kent Victorian newspapers discussed prostitution openly; the circumstances of Dundee's streetwalkers may have been similar to those of their counterparts in other Victorian cities, but the way that the press reacted was substantially different.¹²²³ Walkowitz observes that historians must separate the criminal records of arrested prostitutes from their distorted and pejorative context – in Dundee we must decode the newspaper reports just to catch sight of a streetwalker in the police court column.¹²²⁴ That Jane Thomson or Arnot was 'a showily-dressed woman', who was seen 'attending on' a drunken man, is the strongest hint that we are going to get from a Dundonian paper that she was a prostitute convicted of breaching the peace.¹²²⁵ It is the city's high court papers that provide the essential evidence on the offenders that editors shied away from, because prostitutes charged with theft, in

¹²²³ Finnegan, *Poverty and Prostitution*, Lee, 'Regulating Prostitution in Nineteenth-Century Kent'.

¹²²⁴ Walkowitz, 'Review of *Poverty and Prostitution*', p. 146.

¹²²⁵ C, 28 August 1886.

their testimonies to the procurator fiscal, often spoke plainly of their exchanges with men. Since some of these individuals appear to have made their living by thieving we can tentatively conclude that they belonged to a criminal subculture.

What we can be sure of is that the most prolific offenders belonged to the city's marginalised underclass: the section of society commentators labelled the 'social residuum', the 'submerged tenth', or simply the 'Roughs.' Leading drunken, brutal and chaotic lives, the women entrenched in Dundee's criminal justice system were quite distinct from their law-abiding neighbours. At the start of the period they are found living in Fish Street, an area described in language redolent of the London rookeries. When it was demolished the court records reveal that they were outcasts in the densely populated and insanitary slums of Overgate, Hawkill and Hilltown. But it is necessary to underline the complex characteristics of the city's known female re-offenders since their diversity is easily overlooked when reading about individual cases.

In 1888, *The Courier* described 'street girls' as '[y]oung and pretty ... nearly every one ... [and] neatly dressed', with 'an air of pleasure in [their] gait ... and gaiety pervading [their] whole appearance'.¹²²⁶ It seems that if Euphemia Duff or Mary Ann Stewart, some of the prostitute-recidivists discussed in Chapters 4 and 5, ever matched this description it was surely long before they became well known to the magistrates because, in the previous year, *The Weekly News* described those most familiar to the courts as 'slovenly and haggard ... in person and dress'.¹²²⁷

¹²²⁶ 'THE NIGHT SIDE OF DUNDEE', *C*, 20 April 1888.

¹²²⁷ *WN*, 1 January 1887. Likewise Unknown, 'Reclamation of Women Drunkards: The Experience of the Past Year', *BMJ*, 1812 (1895), p. 726.

In the period of this study the local women charged with soliciting were clearly a diverse group and the prostitutes charged with offences, other than soliciting, represent an equally disparate set. Not only do they include part-time and full-time sex workers but the cohort of prostitute-drunks also includes those whose alcoholism regularly rendered them insensible, as well as women who engaged in heavy-episodic drinking, yet were generally sober enough to turn up at the mill gates at first light.

As for the ‘habite and repute’ thieves, the local archives provide strong evidence that the desire for drink led women to repeatedly steal and many thieves suffered extreme poverty. But this does not take into account the several prostitutes, tried at the high court, who adopted aliases to evade their criminal reputation.¹²²⁸ And some of them had ambitious motives when asking a stranger to stand them a dram. Coexisting in the alleys with the dishonest streetwalker who would snatch a vest or a sheet—anything that could be pawned for a cheap dram—were a minority of dangerous characters, often working with accomplices, who could, at least for a time, earn significant sums through robbery and assault.¹²²⁹

In the reconstruction of the typical female recidivist suspicions arose that she had been discriminated against by a misogynist criminal justice system. This was because,

¹²²⁸ *WN*, 23 October 1872, JC26/1876/70 also JC26/1874/71, JC26/1882/12. For similar examples: Clement, *Love for Sale*, p. 128, Luddy, *Prostitution and Irish Society*, p. 49.

¹²²⁹ Elsewhere the same diversity has been noted. In Liverpool, for example, side-by-side the prostitutes who avoided ‘carrying too much money’ so as not arouse the attentions of the police, were women who endured a ‘grim and depressing existence’. Similarly in Manchester there existed alongside the prostitute-thieves who hid their cache of gold sovereigns intimately, streetwalkers who struggled on the margins of destitution: Macilwee, *The Liverpool Underworld*, pp. 259, 162, Jones, *Crime, Protest, Community*, p. 165, Newby, *Women’s Lives*, p. 141 and Dodge, *Whores and Thieves*, p. 3. Dodge, however, finds that it was unusual for robberies to net women significant sums, p. 94.

according to the police returns, men committed the majority of offences in Dundee but women were most likely to be repeatedly reconvicted. Why the city's criminal statistics record that those with over sixty convictions were most often female was taken up in Chapter 4 and dominated the remainder of the thesis. An interdisciplinary approach guided our research and the feminist theory of double deviance was considered of particular relevance. It suggests that the influence of gender stereotypes would have resulted in a differential assessment of male and female offending by the courts and constabulary. That is, women will have suffered greater police harassment and will have received more severe sentences than men tried for the same offences. Feminist research led us to expect that the harshest sanctions would have been used against women, particularly prostitutes—violating as they did every tenet of the idealised female—because contemporaries accepted the 'scientific' discourse of Victorian and Edwardian criminology that described women offenders as uncivilized, unnatural and more depraved than their male counterparts.¹²³⁰

Chapter 5 looked for evidence that the gendered pattern in Dundee's recidivism records could be explained by discriminatory policing. It was found that 'Robert' could be responsible for the disproportion of women recidivists in the crime statistics since he used a high degree of personal discretion when deciding whether to enforce the law against the drunkards and prostitutes he met on his rounds. And a number of sources do indicate that policing in Dundee was biased. The conviction statistics, for example, can be interpreted as evidence that disorderly women faced a far higher risk of being sent before the magistrates than disorderly men (or alternatively, as was discussed in Chapter 6, that men were more able to pay their police fine). The

¹²³⁰ Morrison, 'Ordering Disorderly Women', p. 117.

complaints of women recidivists themselves similarly gestures at the existence of discriminatory policing. Jessie Troupe or O'Conner, arrested for breach of the peace, complained '[s]he was doing no wrong till the constables meddled with her'. According to her version of events the police had 'tore at her clothes and abused her badly'.¹²³¹ And there are also signs that known offenders suffered extra surveillance. One prostitute, who was released from prison on Monday and back in court on Friday—the typical pattern for a female jailbird—asked the magistrate what right did 'the detectives' have to follow 'her everywhere ... and [to call] her a thief'?¹²³² Sources such as these have previously been interpreted as evidence that discrimination did occur when a mutually antagonistic relationship existed between the recidivist offender and the police. The idea that police harassment accounts to any great extent for the disproportion of women recidivists in the Dundee crime records has, however, been largely rejected here. This is because, taking the evidence as a whole, officers do not appear to have been as biased as the double deviancy theory suggests and, what is more, a number of practicalities prevented them from being so.

The possibility that differential standards determined the policing of Dundee's recidivists is firstly undermined by the fact that men, as well as women, complained that they were the victims of harassment. In 1887 for example, John Cosgrove, in his defence for breach of the peace, declared 'that the police apprehended him for spite'.¹²³³ Therefore contentious relationships were likely to develop irrespective of the gender of the defendant. Secondly, the probability that the female dominance of the recidivism figures reflects an intolerance of prostitutes—a sensible response to the

¹²³¹ *WN*, 19 March 1887.

¹²³² *C*, 28 August 1886.

¹²³³ *WN*, 19 March 1887.

archival pattern—is challenged by the evidence that in the period with which we are concerned Dundee’s vice trade was not actively suppressed. The criminal statistics, in Appendix 2.1, show that, in the main, between 1878 and the early years of the new century less than two hundred women were arrested for importuning annually. Given that there were an estimated 2,500 prostitutes walking the city’s streets each year, it seems therefore that the police policy was to tolerate streetwalkers unless they were known troublemakers or they ignored instructions to move on.

These are not the only reasons to doubt that the recidivism records are markers of gendered social control. Behind the dry statistics lies further evidence that in their everyday regulation of female offenders police officers were usually being pragmatic. The lack of manpower and limits on cell space curtailed the constable’s ability to make arrests. Moreover, the cultural reluctance to deal formally with petty offenders, that defined the Force, greatly lessens the odds that there was a policy to haul well-known deviant women off the streets en masse.

As Chief Constable Dewar observed, in 1900, ‘[a] great many people ran away with the idea that it was a matter of satisfaction and pleasure to the police to make apprehensions and get convictions at the Police Court.’ The reality was, he said, ‘entirely the reverse’, because, ‘[i]f a night constable made an apprehension he had to lose a great portion of his own time by having to attend the Police Court.’ His claim that ‘seldom was anyone apprehended without being previously warned’ is borne out by the evidence that female drunkards and the most hardened female recidivist-thieves received repeated warnings before they were arrested.¹²³⁴ A nice example is

¹²³⁴ C, 25 September 1900.

the case of Bridget Garrity – a woman who later appeared on the inebriate blacklist of 1904: the two arresting officers said that she was charged because this was the only way they could stop her from following them up the street and shouting abuse in their direction.¹²³⁵

The Dundonian evidence patently supports Klein's view that we should not romanticize constables either as 'bobbies' or villains, and to some extent this is due to the influence of the city's magistrates.¹²³⁶ Just as Barry Godfrey, Pamela Donovan and Paul Lawrence have found in England, in Dundee the judiciary acted as a check on zealous policing.¹²³⁷ Every time a magistrate threw out a case against a female drunkard or prostitute the arresting officer will have been reminded of the need to ensure that only the strongest cases were brought before the court. Dundee's judges appear to have largely ignored the chief constables' complaints that if they imposed stricter sentences on habitual offenders then the crime figures would be considerably reduced. In all likelihood this was because the bailies and sheriffs were under greater pressure from ratepayers to reduce the cost of imprisonment. Indeed, the sources show that the courts' reluctance to incarcerate offenders increased as each passing decade confirmed the ineffectiveness of costly prison sentences in preventing crime.

Chapter 5 adds to the debate surrounding the so-called 'unresolved controversy' of women's treatment by the courts by examining the sanctioning of Dundee's female recidivists.¹²³⁸ The criminal record of Margaret Gow, the city's most prevalent female

¹²³⁵ *WN*, 9 January 1886.

¹²³⁶ Klein, *Invisible Men*, p. 10.

¹²³⁷ Godfrey, 'Changing Prosecution Practices', p.179, Donovan and Lawrence, 'Road Traffic Offending', pp. 121, 138.

¹²³⁸ Edwards, 'Sex / Gender, Sexism and Criminal Justice', p. 166.

recidivist, allows us to see how ideas about how best to deal with habitual offenders changed over the period of the research. She received harsh punishments when it was believed that prison would bring about her reform: indeed she spent around twelve years behind bars. Some twenty years after her first court appearance, however, in light of her repeated failure to improve, when she was found drunk the police no longer charged her, rather they made arrangements to return her to the poorhouse. Because the story of Margaret Gow is not a tale of repressive social control it challenges the view that the courts embodied cultural constructions and disputes the place of double deviancy theory to the study of Victorian criminal justice.¹²³⁹ In addition, since no allusions appear to have been made to her inferior biology and inherent criminality her case underlines how far removed the familiar tropes of Victorian criminology were from the thoughts of Dundonian commentators.

It is dangerous to view the discourses impacting on the female offender narrowly. The dominant theme in Gow's case, and the one reiterated throughout the local court records, is that magistrates were pragmatic rather than prejudiced sentencers. As Godfrey, Farrall and Karstedt found in the period, the context of the defendants' continued criminality, rather than their gender, determined the severity or leniency of the punishment.¹²⁴⁰ The magistrate was being expedient when he allowed Helen McGuire Bisland, whose story opened this chapter, to leave the court with merely an admonishment. It was an experiment that was hoped would encourage her to behave better in future and that did not add to the burden of the rates.

¹²³⁹ Zedner, *Women, Crime and Custody*, p. 2, Morrison, 'Ordering Disorderly Women', p. 10.

¹²⁴⁰ Godfrey, Farrall and Karstedt, 'Explaining Gendered Sentencing Patterns', p. 717. Modern sociologists reach the same conclusion: Bond and Jeffries, 'Indigeneity and the Judicial Decision to Imprison', pp. 267-273.

Having said that prejudice did not underpin Dundee's criminal justice system, the predominance of women in the recidivism records may yet reflect the impact of a degree of protective sanctioning. The archives indicate that senior police officers and magistrates often considered prolonged detention as the only way to stabilise the lives of prostitutes and drunkards. But the policy of protective detention probably cannot account for the long-term gender imbalance in the recidivism records. After all, it was *because* women recidivists were undeterred by frequent imprisonment that Dundee's magistrates and chief constables became advocates of protective detention. A crucial finding in the analysis of the city's criminal justice system is that the authorities were not simply motivated to rescue women: they passed sentences that provided men with shelter for the winter too.

Another crucial finding in this dissertation is that Dundee's police, magistrates and press actively rejected the ideas usually associated with nineteenth-century criminology. The separation between Dundee's criminal justice practitioners and those who understood female criminality in psychological and biological terms is surprising in light of the discussion of the leading studies in Chapter 4. However Chapter 6 revealed that the existing research is flawed. Namely, it provides an oversimplified account of the medico-psychological community and it too often assumes the influence of a sexist discourse on the operation of the Victorian and Edwardian criminal justice system.

As for the fascinating question why Dundee's most serious recidivists were women, taken as a whole, the evidence suggests that a combination of police discrimination

and complex social, psychological and legal processes appear to provide the answer. The most important factor, however, was probably imprisonment for several local and national commentators believed that once a woman had served time in prison her social and economic difficulties generally escalated beyond those of her male counterpart.

In the final analysis we must remember the limits of scholarly research. Problems with the evidence have been a hindrance throughout the study. In Chapter 3 there were difficulties defining the loose ‘No Trade’ and ‘mill worker’ labels in the local records. The national disagreement over the definition of the habitual offender and the habitual drunkard also hampered our efforts, in Chapter 4, to distinguish the most persistent recidivists —whom we referred to as the ‘small army’ of recidivists —from the less notorious repeat offenders, with fewer than twenty convictions. A barrier in the research of the justice system, in Chapter 5, was caused by the difficulty in identifying comparable male and female offenders, given the absence of original police and sheriff court papers. For the majority of those tried in Dundee, we have had to rely on edited trial reports which do not reflect the whole court roll and whose analysis is curtailed by the obscurity of the language and the absence of detail. And because the immensity of the events surrounding the First World War saw interest in the inferior courts all but vanish, the lack of published trial reports insists that the War years barely feature in this study. In the use of the criminal statistics we were obviously hampered by the dark figure, and in addition by the several format changes to the returns which had the effect of reducing the available data. When it was necessary to create a snapshot of police, judicial and public attitudes, in order to determine the likelihood that men and women offenders were considered differently,

there were only fragmentary sources to draw upon. None of these were homogenous groups, and neither were the recidivists, yet we have been forced to generalise when discussing their relationship with the crime records in order to grapple with the many complexities and contradictions in the archives.

Despite its limitations, however, it is hoped that this examination of Dundee's female offenders and the city's criminal justice system remains valuable to students of crime and policing, particularly those interested in petty offending and the process of criminal justice. This research has filled in some of the gaps in the detail of crime and gender in the period by focusing on everyday offending in a local context. The investigation of women recidivists and their interaction with the authorities has been novel, and in identifying the minimal impact of contemporary criminology on the police and magistrates has opened up an important area for future enquiry. The thesis also fills a gap in the vastly under-researched field of Scottish women's history. Through the study of habitual offenders we have reconstructed the lives of the dispossessed and inarticulate and explored the culture of the most marginalised women in urban society. We have seen that they migrated frequently between Dundee, Glasgow and Edinburgh in search of work (and to escape the police). And through the crime data we have found that although Dundee's reliance on a single, female-dominated industry was unusual, there appear to have been many parallels between deviant women here and their counterparts throughout urban Britain and North America.¹²⁴¹ On this basis, and since it was almost universally recognised, in the period, that the most serious recidivists were women, it would be worthwhile

¹²⁴¹ The findings have much in common with Shani D'Cruze's work on Lancashire and Judith Fingard's work on Canadian Halifax in the same period: *Everyday Violence in Britain*, and *The Dark Side of Life*.

exploring whether the findings on Dundee's female jailbirds are applicable beyond the city. That said, as was demonstrated at the close of Chapter 6, there is still more to ask of the local records if we are to uncover why there were so many women in Dundee with over sixty convictions when there were so few men.

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Appendices

Appendix for Chapter 1

1.1: Females accused of drunkenness and assault, breach of the peace from Dundee police returns, with information on supply-side factors added

Year	Drunkenness	Assault, Breach of the Peace, Disorderly conduct	Total of drink-related crimes	Female Population from census	Police to population ratio – number of police	Other police supply-side factors
1865	412	501	913		Natural population increase of 14,083 between 1869-1878	Mr Mackay Dundee police superintendent
1870	277	501	778	1871: 68,119		
1875	539	1113	1,652			1873: West (Scouringburn) and East and Lochee Station Houses opened. 1875: Police Commission found Dundee force inefficient 1876: C.C. Dewar appointed, major reorganisation of force. 1877 Northern Police Station opened and the town was divided into 5 police districts and the constable's beats were reorganised. 2 sergeants were placed on duty over constables in the central district (2 in the day, 2 night) and in other districts there was always one sergeant on duty. 1877 court-house cell accommodation and central police station cells largely increased. 1878: new police legislation 1879: Habitual Drunkards Act
1880	614	1135	1,749	1881: 80,108	1:925	1881: first police instruction book introduced 1882: telephonic communication introduced
1885	428	806	1,234		1:938 1885 163 police	The inspector of constabulary reported that the force was 'numerically weak for the amount of work that [had] to be done' C, 5 August 1885
1890	495	1083	1,578	1891: 85,389	1:981	The Extension and Improvement Act 1982 made it an offence to keep pubs open between midnight and 5 am
1895	511	730	1,241		1:898	
1900	858	912	1,770	1901: 89,106	1:877 1902 191 police	1904: Licensing (Scotland) Act 1903 introduced 10 o'clock closing from May 1904. Major format changes to police annual returns. Detailed crime statistics no longer provided locally.
1905	517	526	1,043		1905 193 police	
1910	576	386	962			1909 Dewar retires, new C.C. Carmichael appointed

1.1 continued: Females accused of drunkenness and assault, breach of the peace from Dundee police returns, with information on supply-side factors added

1915	928	369	1,297	1917 1:1245	First World War, legislation restricting the sale of drink. Strength and availability of whisky decreases. Criminal Justice Administration Act 1914 gave people more time to pay their police fine.
1920	617	297	914	1919 227 police	Post-war depression. Riots.
1925	534	292	826	1924 1:666 1925 257 police	1927 Dundee Prison closes.

Sources: *PoR*, 1894, 1902, 1919, 1922, 1928 1869–1877, 1878–1902, *DYB*, 1878.

Appendix for Chapter 2

2.1: Apprehensions for Dundee's prevalent female crimes: assaults and breach of the peace, drunkenness, thefts (simple)

Year	Assaults, Breach of the Peace, Disorderly Conduct		Importuning	Drunkenness / Drunk and Incapable		Thefts (Simple)	
	Male	Fem		Male	Fem	Male	Fem
1865	819	419		835	447		
1866	789	453		910	520		
1867	753	393		920	498		
1868	782	411		616	319		
1869	786	398		585	322	165	94
1870	935	501		536	277		
1871	974	519		656	324	144	89
1872	1338	801		704	429		
1873	1434	917		944	502	254	162
1874	2097	1288		1343	564	281	170
1875	1855	1113		1117	539	241	183
1876	2099	1193		1076	536		
1877	2481	1303		1384	596	613	337
1878	2369	1254	177	1580	682		
1879	1845	974	149	1284	535		
1880	1932	1135	156	1264	614		
1881	1784	1104	164	1173	640		
1882	1957	1107	124	991	596		
1883	2133	1251	11	1288	728	422	271
1884	1919	1125	36	1023	541	395	217
1885	1465	811	20	752	428	443	10
1886	1789	961	38	799	377	393	155
1887	1836	960	62	806	382	451	164
1888	1527	755	14	686	353	321	100
1889	1856	877	3	803	430	479	233
1890	2223	1083	23	631	494	353	205
1891	1912	912	95	660	471	347	192
1892	1592	794	57	652	440	358	203
1893	1835	968	335	926	672	405	150
1894	1735	841	283	884	481	339	142
1895	1548	730	125	859	511	341	166
1896	1731	766	132	862	505	333	169
1897	1499	647	106	812	611	410	164
1898	1529	658	124	851	660	306	148
1899	1609	679	133	1062	695	266	108
1900	1692	811	140	1367	858	334	152
1901	1624	745	153	1198	768	296	139
1902	1631	923	120	1264	815	275	140
1903	1435	730	162	1030	629		
1904	1244	632	135	1106	608		
1905	1266	526	3	1100	517		
1906	1271	534		1468	792		
1907	1401	545		1865	967		
1908	1422	463		1919	966		
1909	1084	400		1149	715		
1910	1082	386		943	576		
1911	967	340		924	573		
1912	1195	433		1084	671		
1913	1249	469		1281	917		
1914	1018	373		1233	955		
1915	681	369		1317	928		
1916	411	322		940	790		
1917	311	234		570	596		
1918	279	226		523	284		
1919	519	272		952	394		
1920	599	297		1227	617		
1921	506	290		973	466		
1922	502	203		801	397		
1923	586	231		772	432		
1924	593	255	20	924	531		
1925	742	292	10	916	534		

Sources: *PoR*, 1869–1877, 1878–1902, 1905 and 1928, *DYB*, 1883–1902, and for apprehensions for prostitution 1878–1904 Lennox, Table 103.

2.2: Proportion of female population involved in crime in 1888

Recorded Crime	All Female Cases	Percent of Female Population
Assault General	197	0.25
Breach of the Peace	889	1.13
Drunkenness	640	0.81
Total Crime	1726	2.19

Sources: Calculations based on *PoR*, 1888 and census figures for 1881.

2.3.1: Seasonal fluctuations in Theft (Simple) for women offenders 1897–1902

Year	Jan	Feb	Mar	Apr	May	June	July	Aug	Sept	Oct	Nov	Dec	Total
1897	23	20	14	8	9	13	11	13	11	18	15	15	164
1898	16	11	17	7	7	12	12	15	13	15	8	8	148
1899	8	10	12	12	10	8	8	6	8	10	11	11	108
1900	16	7	11	6	11	13	13	13	20	10	17	17	154
1901	11	13	10	9	7	10	13	10	9	18	14	14	139
1902	13	11	18	13	15	8	6	5	18	9	9	9	140

Source: *PoR* 1897–1902

2.3.2: Seasonal fluctuations in convictions for crimes against property without violence 1878–1903 (male and female)

Month	Convictions
January	42.8
February	35.8
March	42.1
April	34.1
May	39.7
June	41.0
July	35.0
August	40.6
September	46.1
October	44.0
November	43.8
December	39.5

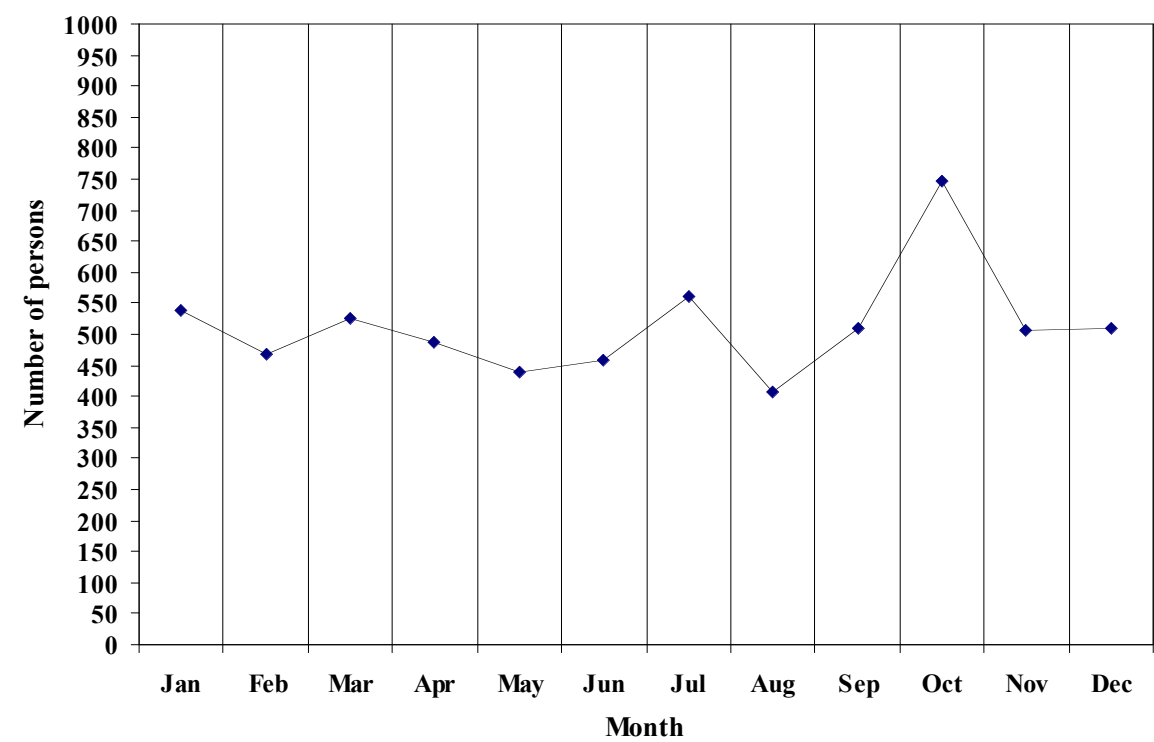
Source: Lennox, Appendix 289

2.4: The number of registered pawnshops in Dundee 1876–1904

Year	No' pawnshops
1876–1877	27
1878–1879	28
1880–1881	32
1882–1883	37
1884–1885	36
1885–1886	36
1886–1887	41
1887–1888	43
1888–1889	42
1889–1890	43
1890–1891	38
1891–1892	37
1892–1893	35
1893–1894	35
1894–1895	32
1895–1896	32
1896–1897	33
1897–1898	33
1898–1899	32
1899–1900	34
1901–1902	31
1902–1903	32
1903–1904	28

Source: *Dundee Trades And Professions Directory* 1876–1904

2.5.1: The seasonal patterns of female offending, drunkenness and breach of the peace 1897–1904



2.5.1 continued: The seasonal patterns of female offending, drunkenness and breach of the peace 1897–1904

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1897	41	38	50	45	38	58	68	40	61	64	52	56	611
1898	55 ↑14	62 ↑24	58 ↑8	50 ↑5	48 ↑10	47 ↓11	56 ↓12	49 ↑9	58 ↓3	79 ↑15	61 ↑9	58 ↑2	660 ↑49 8.02%
1899	49 ↓6	39 ↓23	55 ↓3	61 ↑11	55 ↑7	57 ↑10	53 ↓3	62 ↑13	58 0	95 ↑16	63 ↑2	68 ↑10	695 ↑35 5.30%
1900	65 ↑16	73 ↑34	66 ↑11	64 ↑3	64 ↑9	64 ↑7	82 ↑29	56 ↓6	85 ↑27	127 ↑32	83 ↑20	77 ↑9	858 ↑163 23.45%
1901	76 ↑11	63 ↓10	71 ↑5	79 ↑15	65 ↑1	54 ↓10	69 ↓13	35 ↓21	56 ↓29	90 ↓37	63 ↓20	64 ↓13	763 ↓95 11.07%
1902	83 ↑7	59 ↓4	64 ↓7	67 ↓12	51 ↓14	70 ↑16	87 ↑18	49 ↑14	78 ↑22	100 ↑10	80 ↑17	75 ↑11	815 ↑52 6.82%
1903	54 ↓29	56 ↓3	66 ↑2	39 ↓28	46 ↓5	52 ↓18	62 ↓25	45 ↓4	52 ↓26	87 ↓13	46 ↓34	55 ↓20	629 ↓186 22.82%
1904 D&I ¹²⁴⁶	91	50	67	62	42	39	57	52	46	80	43	40	608
1904 D&D ¹²⁴⁷	24	28	28	21	29	18	27	18	15	26	16	16	263
Month Totals	538	468	525	488	438	459	561	406	509	748	507	509	

Source *PoR*, 1897–1904

¹²⁴⁶ Drunk and Incapable

¹²⁴⁷ Drunk and Disorderly, format changes.

2.5.2: Breach of the peace seasonality 1897–1904

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
1897	40	44	60	54	41	64	70	83	51	50	54	36	647
1898	40 0	29 ↓1 5	59 ↓1	71 ↑1 7	44 ↑3	62 ↓2	70 0	65 ↓18	74 ↑2 3	47 ↓3	47 ↓7	50 ↑1 4	658 ↑11 1.70%
1899	44 ↑4	37 ↑8	47 ↓12	45 ↓2 6	53 ↑9	72 ↑1 0	68 ↓2	79 ↑14	71 ↓3	79 ↑3 2	47 0	34 ↓1 6	676 ↑18 2.74%
1900	61 ↑1 7	31 ↓6	49 ↑2	64 ↑1 9	85 ↑32	76 ↑4	97 ↑2 9	66 ↓13	85 ↑1 4	89 ↑1 0	54 ↑7	50 ↑1 6	807 ↑131 19.38 %
1901	88 ↑2 7	39 ↑8	38 ↓11	60 ↓4	51 ↓34	59 ↓1 7	76 ↓2 1	77 ↑11	10 1 ↑1 6	69 ↓2 0	71 ↑17	63 ↑1 3	744 ↓63 7.81%
1902	69 ↓1 9	69 ↑1 8	71 ↑33	73 ↑1 3	82 ↑31	95 ↑3 6	95 ↓1 9	72 ↓5	11 9 ↑1 8	91 ↑2 2	52 ↓19	65 ↑2	922 ↑178 23.92 %
1903	41 ↓2 8	47 ↓2 2	58 ↓13	51 ↓2 2	68 ↓14	82 ↓1 3	86 ↓9	67 ↓5	76 ↓4 3	55 ↓3 6	51 ↓1	46 ↓1 9	728 ↓194 21.04 %
1904	25 ↓1 6	26 ↓2 1	18 ↓40	16 ↓3 5	39 ↓29	33 ↓4 9	47 ↓3 9	45 ↓22	33 ↓4 3	36 ↓1 9	33 ↓18	17 ↓2 9	368 ↓360 49.45 %
Month Total s	40 8	32 2	400	43 4	463	54 3	60 9	554	61 0	51 6	409	36 1	

Source: *PoR*, 1897–1904

2.6.1: Average alcoholic content of drinks in 1979

Beer	4-8 per cent v/v
Whisky	37-40 per cent v/v
Rum	40 per cent v/v
Gin	37-40 per cent v/v

Source: Royal College of Psychiatrists, *Alcohol and Alcoholism* (London, 1979), p. 28

2.6.2: Effects of specific quantities of alcohol on blood ethanol concentrations and mental function

Number of drinks (Bear in mind that in past drink often adulterated, alcohol concentration stronger and population had a lower level of nutrition)	Blood alcohol level	Possible effects
1 double measure whisky	30	Increased likelihood of accident
3 whiskies	50	Increased cheerfulness, impaired judgement and loosening of inhibitions
10 whiskies	150	Loss of self-control, exuberance, quarrelsome, slurred speech
Half a bottle of spirits	200	Stagger, double vision, loss of memory
0.75 bottle of spirits	400	Sleepiness, oblivion, coma

Source: R K Foster and H E Marriot, 'Alcohol Consumption in the New Millennium-Weighing up the Risks and Benefits for our Health', *British Nutrition Foundation*, 31 (2006), p. 320

2.7: Number of licensed drink providers in Dundee 1861–1921

Year	Population	Return of certificates for sale of excisable liquors	Proportion of population to each License for sale of Excisable Liquors	Number of Pubs	Number of licensed grocers
1861	91,664	463	1:200	260	185
1871	120,724	531	1:227	280	235
1881	142,154	458	1:310	238	212
1891	155,985	446	1:350	227	211
1901	160,871	427	1:376	215	205
1911	165,002	405	1:408	210	188
1921	168,217	378	1:434	211	171

Source: *PoR*, 1901 and 1928

Appendix for Chapter 3

3.1.1: The most common occupations of female offenders 1868–1877

1868	Prostitutes	No trade	Millworkers	Weaver
	282	488	153	13
Assault	15	37	13	
Assault and robbery	3		1	
Assault by stabbing				
Begging				
Disorderly Conduct	141	152	35	
Drunkenness	78	188	46	
Importuning				
Theft Simple	37	53	39	
Vagrancy		15		

1869	Prostitutes	No trade	Millworkers	Weaver
	274	469	114	11
Assault	8	31	7	
Assault and robbery	2			
Assault by stabbing	2			
Begging				
Disorderly Conduct	143	154	43	
Drunkenness	70	214	31	
Importuning				
Theft Simple	39	30	20	
Vagrancy		16		

1871	Prostitutes	No trade	Millworkers	Weaver
	337	582		3
Assault		56	28	
Assault and robbery				
Assault by stabbing	2	1	1	
Begging		3		
Disorderly Conduct	137	181	85	
Drunkenness		188	50	
Importuning	64			
Theft Simple	19	47	20	
Vagrancy	1	4		

1873	Prostitutes	No trade	Millworkers	Weaver
	418	1056	485	0
Assault	7	49	44	
Assault and robbery	2	1	4	
Assault by stabbing				
Begging				
Disorderly Conduct	144	429	224	
Drunkenness	76	310	112	
Importuning	149			
Theft Simple	33	75	53	
Vagrancy		2		

1874	Prostitutes	No trade	Millworkers	Weaver
	375	1469	676	0
Assault	10	61	55	
Assault and robbery				
Assault by stabbing	1			
Begging				
Disorderly Conduct	155	605	356	
Drunkenness	97	352	109	
Importuning	84	1		
Theft Simple	15	94	59	
Vagrancy				

1875	Prostitutes 377	No trade 1289	Millworkers 563	Weaver 1
Assault	8	100	38	
Assault and robbery				
Assault by stabbing	2			
Begging				
Disorderly Conduct	160	499	287	
Drunkenness	83	335	111	
Importuning	82			
Theft Simple	26	94	62	
Vagrancy				

1876	Prostitutes 416	No trade 1297	Millworkers 573	Weaver 0
Assault	4	83	51	
Assault and robbery				
Assault by stabbing		1		
Begging				
Disorderly Conduct	166	549	327	
Drunkenness	96	349	88	
Importuning	123			
Theft Simple	20		54	
Vagrancy		2		

1877	Prostitutes 600	No trade 1296	Millworkers 654	Spinner
Assault	9	107	67	
Assault and robbery				
Assault by stabbing		1	1	
Begging	1	21	3	
Disorderly Conduct	198	576	350	
Drunkenness	96	860	126	
Importuning				
Theft Simple	55	120	75	
Vagrancy				

Source: *PoR*, 1868–1877

3.1.2: The average of offences committed by prostitutes, millworkers and women of ‘No Trade’ 1868–1877

Prostitutes	No Trade	Millworkers	Spinner	Weaver
2663	7046	3075	0	0
20.8%	55.1%	24.1%	0	0

Source: *PoR*, 1868–1877

3.2: ‘The Age the Twig is Bent’

The police only recorded the age of those apprehended for petty crime during eleven years of the period of the research, unfortunately these figures are not consecutive but are broken into two series: 1876, 1877 and 1881 and an eight year span 1894–1904. The 1876–1881 series provides negligible distinction between women aged 20 to 60 years. The 1897–1904 table reveals females aged 21 to 40 were most likely to be cited for drunkenness. In 1876, 1877 and 1881 on average 53 per cent of women charged with drunkenness were aged 20 to 40 years, similarly from 189 to 1904 54 per cent of offenders were in this cohort. The figures for breach of the peace reveal 65 per cent of defendants were aged 20 to 40 years in 1876, 1877 and 1881 and 63 per cent from 1894 to 1904. The police statistics for theft present the same picture: 55 per cent of women belonged to this cohort in 1897–1902, 62 per cent 1876, 1877 and 1881. Dundee’s breach of the peace statistics 1876–1881 indicate that young women were common offenders. Similarly the 1897–1904 returns record that girls aged 16 to 21 were responsible for 12 per cent of the known female disorder offences and similar numbers were apprehended for petty theft. The statistics used to reach this finding are provided in Appendix 3.3.2–3.2.4 below.

3.2.1: Dundee population figures 1881

1881 Census	Under 5	5–14	15–19	20–24	25–44	45–64	65+
Female	9272	16092	8195	8167	22623	11639	2851
%	12%	20%	10%	10%	29%	15%	4%

Source: Census 1881

3.2.2: Drunkenness and drunk and incapable age distribution 1876–1904

FIRST SERIES 1876/77 and 1881								
Age Group	10 to 15	15 to 20	20 to 25	25 to 30	30 to 40	40 to 50	50 to 60	Over 60
Female	12	93	177	309	465	420	208	88
Percentage	0.68%	5.25%	9.99%	17.44%	26.24%	23.70%	21.73%	4.97%

SECOND SERIES 1897 to 1904								
Age Group	Under 12	12 to 16	16 to 21	21 to 30	30 to 40	40 to 50	50 to 60	Over 60
Female	0	6	257	1135	1298	994	492	250
Percentage	0.0%	0.14%	5.80%	25.61%	29.29%	22.43%	11.10%	5.64%

Source: *PoR*, 1876–1904

3.2.3: Breach of the peace age distribution 1876–1904

FIRST SERIES 1876/77 and 1881								
Age Group	10 to 15	15 to 20	20 to 25	25 to 30	30 to 40	40 to 50	50 to 60	Over 60
Female	22	405	700	632	721	363	185	48
Percentage	0.72%	13.17%	22.76%	20.54%	23.44%	11.80%	6.01%	1.56%

SECOND SERIES 1897 to 1904								
Age Group	Under 12	12 to 16	16 to 21	21 to 30	30 to 40	40 to 50	50 to 60	Over 60
Female	0	14	537	1457	1404	799	238	66
Percentage	0.0%	0.31%	11.89%	32.27%	31.10%	17.70%	5.27%	1.46%

Source: *PoR*, 1876–1904

3.2.4: Theft simple age distribution 1876–1904

FIRST SERIES 1876/77 and 1881								
Age Group	10 to 15	15 to 20	20 to 25	25 to 30	30 to 40	40 to 50	50 to 60	Over 60
Female	20	91	113	150	150	82	36	26
Percentage	3%	13.6%	16.9%	22.5%	22.5%	12.3%	5.4%	3.9%

SECOND SERIES 1897 to 1904								
Age Group	Under 12	12 to 16	16 to 21	21 to 30	30 to 40	40 to 50	50 to 60	Over 60
Female	1	14	61	135	124	81	39	18
Percentage	0.2%	3%	12.9%	28.5%	26.2%	17.1%	8.2%	3.8%

Source: *PoR*, 1876–1904

Appendix for Chapter 4

4.1: Number of recidivist thieves 1885–1896

Theft (simple)	1885		1886		1887		1888		1889		1890		1891		1892		1893		1894	
	m	f	m	f	m	f	m	f	m	f	m	f	m	f	m	f	m	f	m	f
Apprehended or cited	291	98	251	106	316	121	372	118	338	171	225	123	223	125	224	134	244	105	228	92
With previous convs	118	49	97	49	101	42	90	41	141	62	118	78	122	59	101	65	95	40	105	50
First-time offenders	173	49	154	57	215	79	282	77	197	109	107	45	101	66	123	69	149	65	123	42
% of first-time offenders	59	50	61	54	68	65	76	65	58	64	48	37	45	53	55	51	61	62	54	46

Theft (simple)	1895		1896	
	m	f	m	f
Apprehended or cited	236	118	233	113
Thefts with one or more previous convictions for theft	70	47	83	53
First-time offenders	166	71	150	60
% of first-time offenders	70	60	64	53
Total first-time female offenders 1885-1896	789			
Total female recidivists 1885-1896	635			

Format change 1897

Source: *PoR*, 1885–1896 conviction figures

4.1.2: The number of female recidivists 1876, 1886

	1876	1886
‘Total number of [female] apprehensions &c, stated in the City Police Returns for each of the years mentioned’	2321	1841
‘Deduct number of [female] re-appearances during each year of Habitual Offenders’	631	506
‘[Female] Individuals apprehended or cited during the year’	1690	1335

Source: *PoR*, 1893

4.1.3: Totals of Male and Female Recidivists Before the Police Court More than Once 1883–1925

Year	Number of Appearances	Male	Female
1883	2–18*	572	388
1884	2–12	464	343
1885	2–14	333	249
1886	2–12	375	276
1887	2–13	463	277
1888	2–11	418	228
1889	2–15	498	241
1890	2–13	466	302
1891			
1892			
1893	2–17	516	379
1894	2–13	467	350
1895	2–10	407	207
1896	2–10	433	277
1897	2–14	423	255
1898			
1899			
1900	2–17	544	304
1901	2–13	542	325
1902	2–15	511	351
1903			
1904			
1905	2–9	386	191
1906	2–10	443	278
1907	2–11	573	298
1908	2–10	713	280
1909			
1910			
1911			
1912	2–12	472	220
1913	2–14	493	274
1914	2–12	489	288
1915	2–12	420	263
1916	2–10	271	210
1917	2–9	198	174
1918	2–10	139	74
1919	2–10	294	128
1920			
1921	2–10	338	158
1922	2–11	266	120
1923	2–10	300	146
1924	2–10	358	169
1925	2–10	391	163
Total	1883–1925, excluding 1918		7228
Average	Calculated without 1918 figure		278

Source: *DYB*, 1883–1902, *PoR*, 1905–1925

* It is apparent from further evidence that this figure refers exclusively to female recidivists.

1918 has been excluded from the calculations because the total appears inconsistent with other years. During war time the police force was reduced in size and the availability of drink was reduced and it is likely that these factors had a significant impact on the crime returns.

4.1.4: Male and Female Recidivists With Twenty Plus Convictions 1883–1925

Year	Number of Convictions	Male	Female
1883	20–170*	68	98
1884	20–180	85	113
1885	20–260	79	105
1886	20–140	89	93
1887	20–150	100	101
1888	20–150	96	101
1889	20–160	107	112
1890	20–140	116	97
1891			
1892			
1893	20–160	91	103
1894	20–160	140	139
1895	20–160	143	131
1896	20–200	148	118
1897	20–120	71	72
1898			
1899			
1900	20–170	162	139
1901	20–140	168	151
1902	20–170	96	116
1903			
1904			
1905	20–150	71	54
1906	20–130	89	79
1907	20–140	160	76
1908	20–150	187	110
1909			
1910			
1911			
1912	20–180	125	94
1913	20–180	189	121
1914	20–190	181	129
1915	20–190	150	126
1916	20–150	102	102
1917	20–190	86	92
1918	20–190	67	58
1919	20–190	98	81
1920			
1921	20–200	116	91
1922			
1923	20–210	58	52
1924	20–210	139	96
1925	20–210	127	119
Total			3269
Average			102.2

Source: *DYB*, 1883–1902, *PoR*, 1905–1925

* It is apparent from further evidence that this figure refers exclusively to female recidivists.

4.1.5: Male and female recidivists before the court from 2 to 14 times in a year 1885–1925

1885	Male	Female	1895	Male	Female	1905	Male	Female
2x	232	149	2x	305	141	2x	289	124
3x	75	55	3x	80	46	3x	68	31
4x	16	22	4x	15	43	4x	18	19
5x	6	10	5x	4	21	5x	88	8
6x	6	4	6x	2	12	6x	3	3
7x	0	3	7x	0	5	7x	0	5
8x	0	3	8x	0	2	8x	0	0
9x	0	1	9x	N/A		9x	0	1
10x	N/A		10x	1	0	10x	0	0
11x	0	1	11x	N/A		11x	N/A	
14x	0	1	14x	N/A		14x	N/A	
Total	333	249		407	677		386	191

1915	Male	Female	1920	Male	Female	1925	Male	Female
2x	301	149	2x	255	93	2x	293	86
3x	86	58	3x	50	28	3x	68	33
4x	15	18	4x	20	12	4x	21	18
5x	11	15	5x	5	9	5x	6	13
6x	5	4	6x	3	4	6x	2	5
7x	1	9	7x	1	7	7x	1	6
8x	0	5	8x	3	0	8x	0	1
9x	1	4	9x	1	3	9x	N/A	
10x	0	0	10x	0	2	10x		
11x	0	1	11x	N/A		11x	0	1
12x	0	0	12x			12x	N/A	
Total	420	263		338	158		391	163

Source: Individuals Who Have Been More Than Once Before the Habitual Police Court During the Year ...' *DYB*, 1885, 1895, *PoR*, 1905–1925

4.2.1: Male to female ratio of petty assault convictions, according to age 1876/77 & 1881

Age	10-15	15-20	20-25	25-30	30-40	40-50	50-60	60 +	Total
M	93.75	80.0	78.89	77.66	79.92	76.57	65.57	81.82	78.28
F	6.25	20.0	21.11	22.34	20.08	23.43	34.43	18.18	21.72

Source: *PoR*, 1876, 1877, 1881

4.2.2: Male to female ratio of drunkenness and drunk and incapable convictions, according to age 1876/77 & 1881

Age	10-15	15-20	20-25	25-30	30-40	40-50	50-60	60 +	Total
M	47.83	59.03	74.82	71.86	66.79	64.16	64.92	53.44	67.22
F	52.17	40.97	25.18	28.14	33.21	35.84	35.08	46.56	32.78

Source: *PoR*, 1876, 1877, 1881

4.2.3: Male to female ratio of drunkenness and drunk and incapable convictions, according to age 1897 to 1904

Age	< 12	12-16	16-21	21-30	30-40	40-50	50-60	60 +	Total
M	0	50.0	59.84	59.01	58.16	56.06	58.69	64.99	58.54
F	0	50.0	40.16	40.99	41.84	43.94	41.31	35.01	41.46

Source: *PoR*, 1897, 1904

4.3: Percentage of male and female apprehensions and re-offenders all cases from 1876–1893

Year	Male			Female			Total		
	Apprehensions	Re-offenders All Cases	Percentage	Apprehensions	Re-offenders All Cases	Percentage	Apprehensions	Re-offenders All Cases	Percentage
1876	4181	838	20.04	2321	933	40.20	6502	1771	27.24
1877	5167	1293	25.02	2605	1404	53.90	7772	2697	34.70
1878	5198	1232	23.70	2476	1211	48.91	7674	2443	31.83
1879	4548	1272	27.97	2031	1041	51.26	6579	2313	35.16
1880	4557	1356	29.77	2296	1171	51.00	6853	2527	36.87
1881	4167	1136	27.26	2255	993	44.04	6422	2129	33.15
1882	4154	1322	31.82	2262	1056	46.68	6416	2378	37.06
1883	4870	1403	28.81	2585	1161	44.91	7455	2584	34.66
1884	4715	1109	23.52	2474	1041	42.08	7189	2150	29.91
1885	3689	807	21.88	1759	704	40.02	5448	1511	27.73
1886	3993	946	23.69	1841	782	42.48	5834	1728	29.62
1887	4039	1132	28.03	1869	812	43.45	5908	1944	32.90
1888	3804	1017	26.74	1613	646	40.05	5417	1663	30.70
1889	3918	1199	30.60	1756	695	39.58	5674	1894	33.38
1890	4009	1132	28.24	2085	913	43.79	6094	2045	33.56
1891	3926	1150	29.29	1969	922	46.83	5895	2072	35.15
1892	3662	969	26.46	1842	829	45.01	5504	1798	32.67
1893	4450	1258	28.27	2506	1420	56.66	6956	2678	38.50
Total	77047	20571	26.70	38545	17734	46.01	115592	38325	33.16

Source: *PoR*, 1893

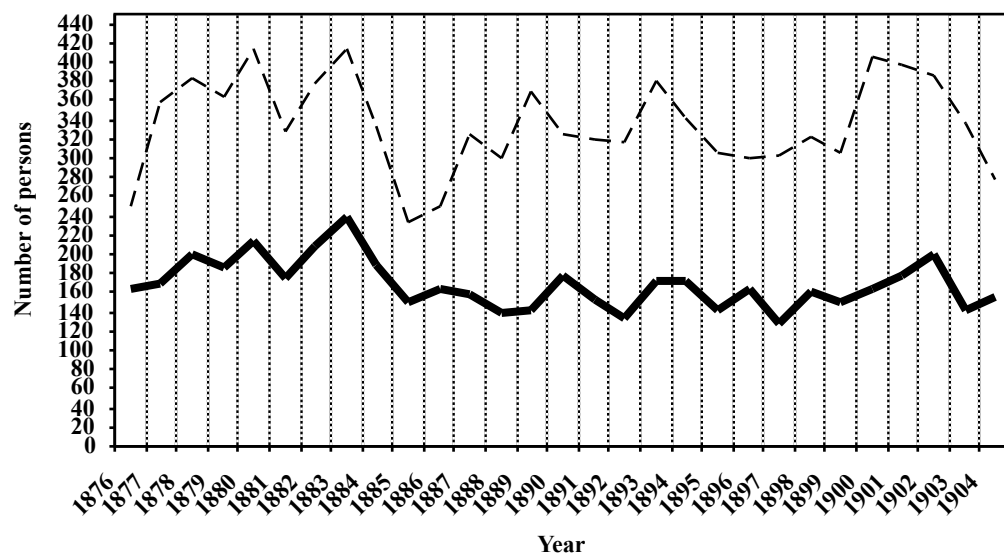
4.4: Habitual offenders for all crimes 1876–1904

Year	2x before court		3x before court		4x before court		5x before court		6x before court	
	m	f	m	f	m	f	m	f	m	f
1876	249	163	73	58	15	32	3	19	4	15
1877	358	170	106	85	35	46	16	30	0	27
1878	382	200	95	77	19	41	10	14	6	17
1879	363	187	87	55	28	36	22	21	8	8
1880	415	215	105	74	34	29	9	32	5	7
1881	328	175	88	69	34	30	11	13	3	13
1882	377	208	112	83	36	36	10	8	10	8
1883	413	239	103	60	36	32	8	24	8	24
1884	333	190	95	79	24	29	10	16	10	16
1885	232	149	75	55	16	22	6	10	6	10
1886	251	163	87	61	18	27	11	12	11	12
1887	325	157	97	54	25	35	11	14	11	14
1888	299	138	82	43	23	27	8	9	4	3
1889	370	143	77	52	36	22	11	9	1	3
1890	326	177	92	62	42	26	3	11	1	9
1891	320	152	103	64	34	33	9	8	1	10
1892	317	134	62	63	27	22	3	18	3	8
1893	380	171	83	72	32	43	12	26	6	19
1894	341	171	87	87	36	35	8	22	1	16
1895	305	141	80	46	15	43	4	21	2	12
1896	301	165	101	45	19	24	8	15	3	10
1897	304	128	87	64	21	18	8	15	1	14
1898	321	162	60	50	25	25	14	16	1	19
1899	306	149	73	48	23	24	7	15	4	14
1900	406	165	88	51	32	30	16	14	2	17
1901	398	178	105	57	21	40	13	22	3	12
1902	385	200	89	68	27	29	7	24	2	15
1903	335	143	67	64	18	31	4	12	1	9
1904	279	155	72	34	19	27	9	12	2	9

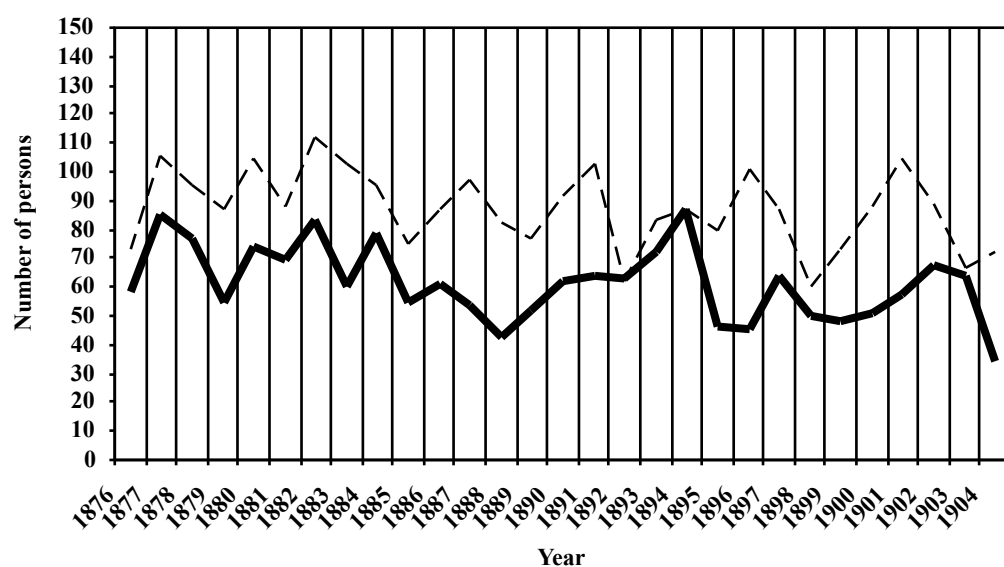
Source: *PoR*, 1893, 1904

The following graphs (Figure 4.4.1–4.4.5) clearly illustrate the gendered trends in the police returns 1876–1904. The records of those who appeared between two and six times annually in court are verified by the figures concerning Dundonians with 20 to 60 convictions each. As these enumerations represent the vast majority of repeat offenders only this section of the evidence is illustrated graphically. Appendix 4.1.3 illustrates that there were women with up to 200 hundred convictions.

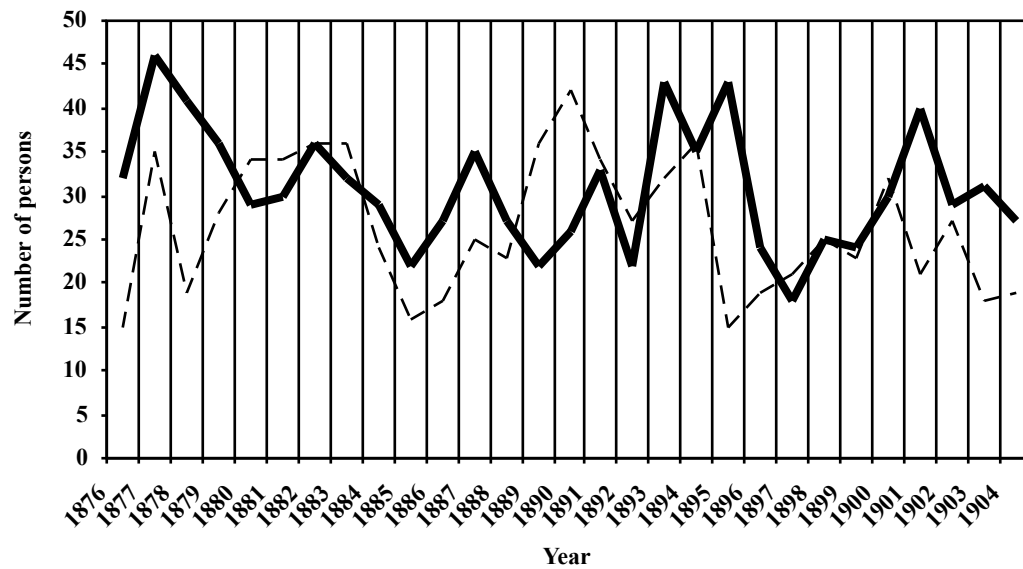
In all the graphs female offending is represented by the **bold** line.



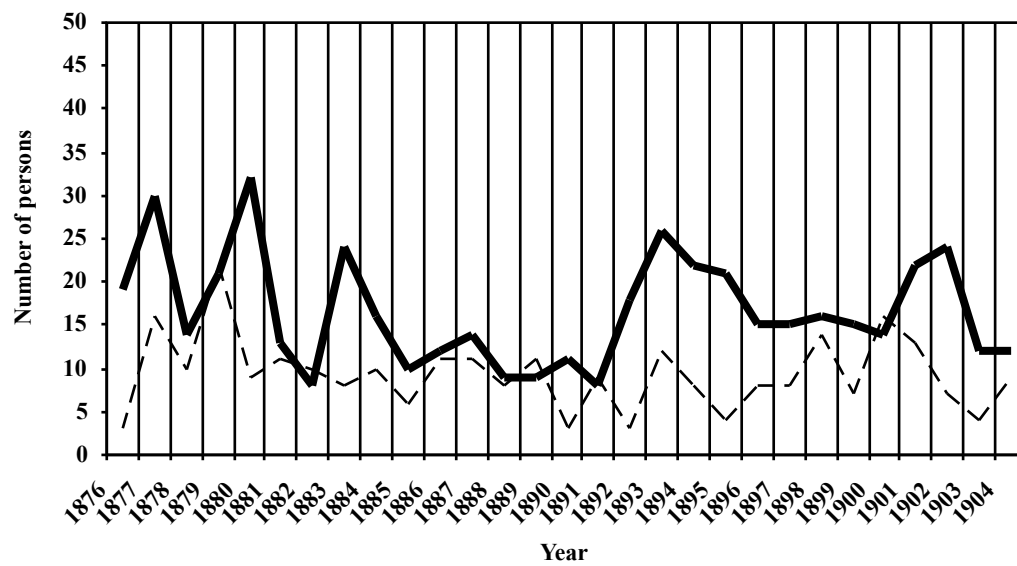
4.4.1: Habitual offenders: 2 times before the court: male and female cases



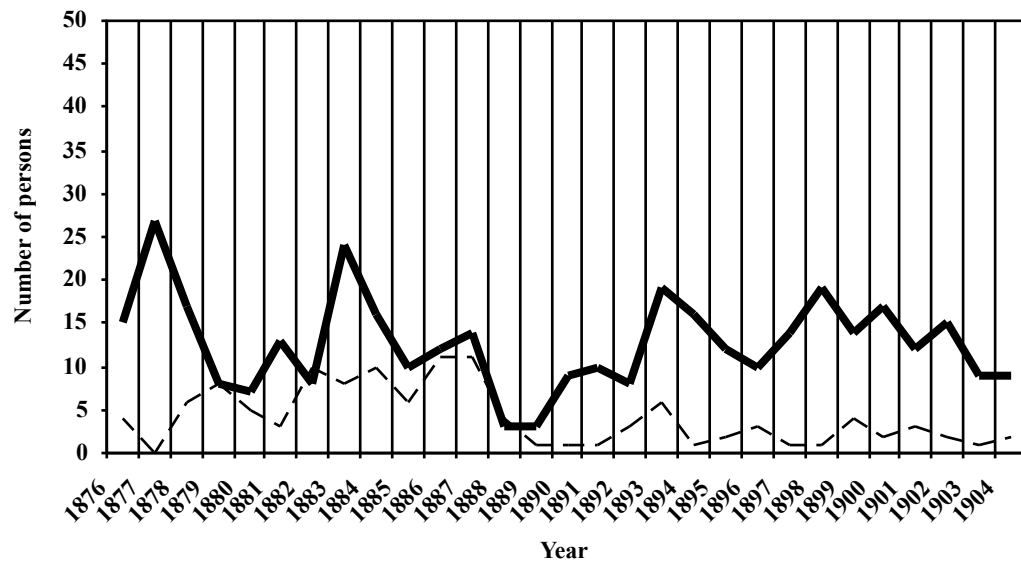
4.4.2: Habitual offenders: 3 times before the court: male and female cases



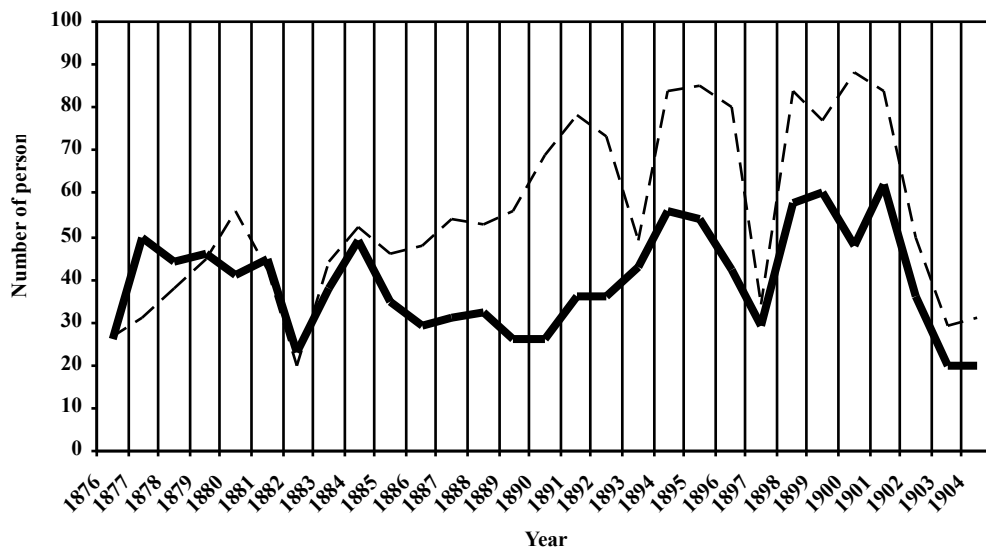
4.4.3: Habitual offenders: 4 times before the court: male and female cases



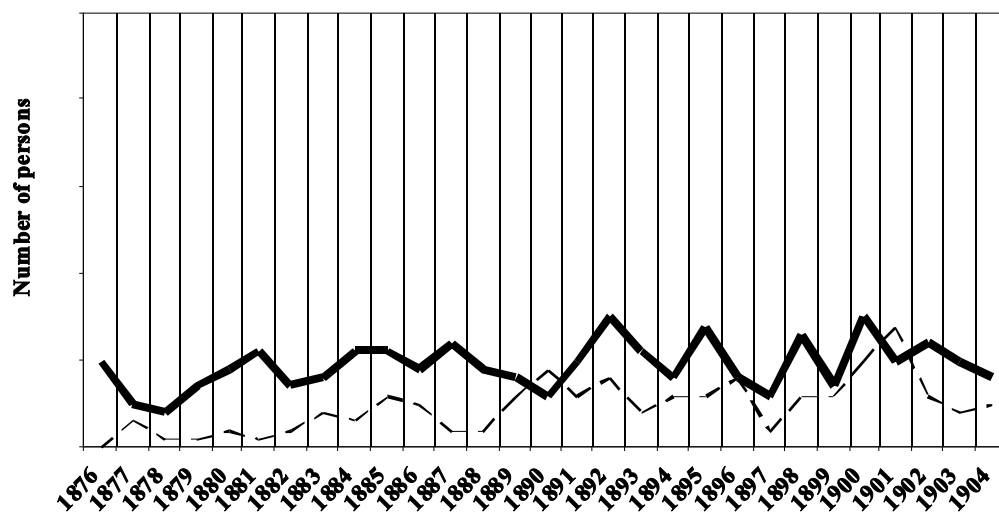
4.4.4: Habitual offenders: 5 times before the court: male and female cases



4.4.5: Habitual offenders: 6 times before the court: male and female cases



4.5.1: Habitual offenders who have been convicted 20 times and upwards for all crimes 1876–1904. The statistics for graphs 4.5.1–4.5.2 are shown in figure 4.5.3.



4.5.2: Habitual offenders 50–60 times before the court, male and female

The statistics are taken from table 4.5.3:

4.5.3: Habitual offenders who have been convicted 20 times and upwards for all crimes 1876–1904

Year	20-30 convictions		30-40 convictions		40-50 convictions		50-60 convictions	
	Male	Female	Male	Female	Male	Female	Male	Female
1876	27	26	10	15	3	6	0	10
1877	31	50	13	16	3	11	3	5
1878	38	44	13	18	5	12	1	4
1879	45	46	12	26	6	15	1	7
1880	56	41	13	26	8	13	2	9
1881	42	45	12	30	7	17	1	11
1882	20	23	10	24	3	10	2	7
1883	44	38	18	18	2	13	4	8
1884	52	49	25	15	5	16	3	11
1885	46	35	24	22	3	13	6	11
1886	48	29	27	23	8	7	5	9
1887	54	31	28	25	12	11	2	12
1888	53	32	21	21	14	14	2	9
1889	56	26	28	31	12	16	6	8
1890	69	26	23	18	11	17	9	6
1891	78	36	23	22	11	17	6	10
1892	73	36	25	15	1	15	8	15
1893	49	43	29	19	5	11	4	11
1894	84	56	35	20	11	23	6	8
1895	85	54	34	18	11	19	6	14
1896	80	42	40	27	16	14	8	8
1897	34	29	21	13	8	5	2	6
1898	84	58	42	24	14	11	6	13
1899	77	60	32	23	20	13	6	7
1900	88	48	25	31	20	28	10	15
1901	84	62	41	31	20	17	14	10
1902	50	36	19	26	13	15	6	12
1903	29	20	24	18	5	8	4	10
1904	31	20	18	8	13	13	5	8
Total	1607	1141	685	623	270	400	138	274

Source: *PoR*, 1876–1904

4.6.1: Long-term patterns of recidivism in a police court sample from 1883 and 1900 (with significant figures in bold)

Before the court	Males 1883	Females 1883	Males 1900	Females 1900
2x	413	239	406	165
3x	103	60	88	51
4x	36	32	32	30
5x	8	24	16	14
6x	5	17	2	17
7x	5	1	0	5
8x	0	4	0	4
9x	1	2	0	8
10x	1	2	0	-
11x	0	1	0	3
12x	0	2	0	2
13x	0	2	0	2
17x	0	1	0	1
18x	0	1	0	-
	572	388	544	304

Source: *PoR*, 1883 and 1900

4.6.2: Men and women with over 60 convictions and the ratio of male to female recidivists

	Male	Female	ratio
1883	0	21	21x
1884	0	22	22x
1885	0	24	24x
1886	1	25	25x
1887	6	22	4x
1888	5	25	5x
1889	5	31	6x
1890	4	30	7.5x
1893	4	19	5x
1894	3	32	10x
1895	6	26	4x
1896	4	27	7x
1897	6	19	3x
1900	9	27	3x
1901	9	31	3x
1902	6	27	4.5x
1905	3	12	4x
1908	12	23	2x
1915	12	27	2.25x
1920	13	33	2.5x
1925	12	25	2x

Source: *DYB*, 1883–1908 and *PoR*, 1905–1925

According to Dundee's own prison reports, in 1905 6 per cent of the male and 16 per cent of the female inmates had been in prison over twenty times before. In 1925 the figures were 9.5 per cent and 32 per cent respectively. As Figure 4.6.3 shows in both 1905 and 1925 twice as many females had experienced fifty or more terms of imprisonment compared to their male counterparts. This pattern is also displayed in the English prison figures see Zedner, *Women, Crime and Custody*, p. 158.

4.6.3: Number of imprisonments of male and female offenders in Dundee Prison, from a sample in 1905 and 1925

	Dundee prison 1905		Dundee Prison 1925	
	M	F	M	F
Never been in prison before	503	115	137	24
Once	268	68	156	23
Twice	149	38	103	12
Thrice	99	30	60	13
4x	67	34	54	17
5x	47	12	31	7
6x and under 10	136	58	80	23
10x and under 20	145	64	50	33
20x and under 50	80	58	57	45
50x plus	12	24	14	28

Source: *PR*, 1905 p. 230, 1925 p. 445.

4.7.1: Accounting for the effect of the demographic imbalance on the proportion of female recidivists in Dundee in 1881

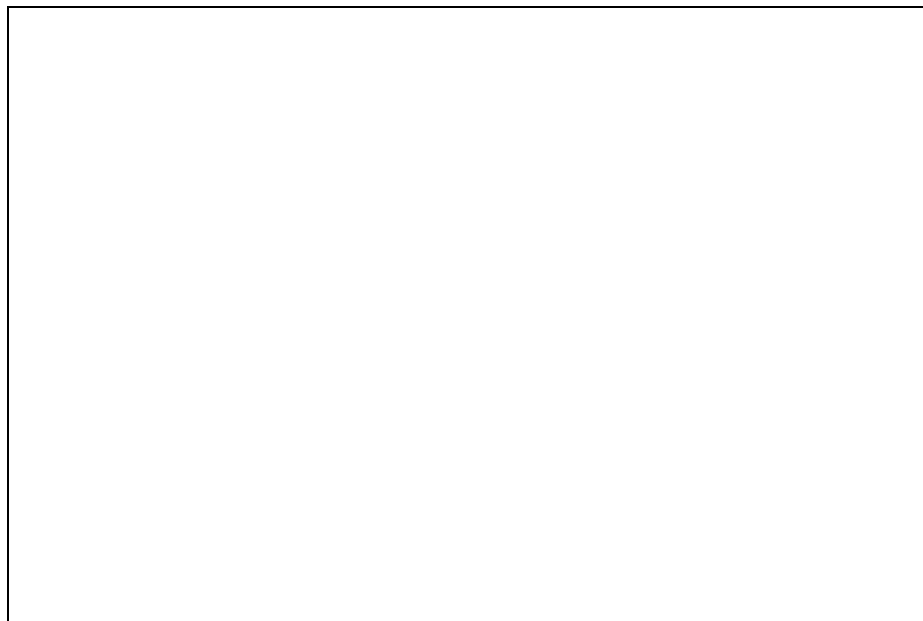
The 1881 percentage convictions of male and female habitual offending cases were adjusted for population imbalance using The *Ninth Decennial Census of the Population of Scotland* (Edinburgh: HMSO, 1882) and the 1881 Dundee annual police return.

Population of Dundee by Parliamentary Burgh (From 1881 census)

Age	Under 5	5 to 14	15 to 19	20 to 24	25 to 44	45 to 64	65 +	Total
Male	9478	15841	6684	5116	14869	7720	1692	61400
Female	9272	16092	8195	8167	22623	11639	2851	78839
All People	18750	31933	14879	13283	37492	19359	4543	140239

Population of Dundee per 100000 by Parliamentary Burgh (From 1881 census)

Age	Under 5	5 to 14	15 to 19	20 to 24	25 to 44	45 to 64	65 +	Total
Male	6758	11296	4766	3648	10602	5505	1207	43782
Female	6612	11474	5844	5824	16132	8299	2033	56218
All People	13370	22770	10610	9472	26734	13804	3240	100000



4.7.2: Dundee 1881 Census population breakdown by age

	Gender Only Distribution (%)							
Age	Under 5	5-14	15-19	20-24	25-44	45-64	65 +	Total
Male	50.55	49.61	44.92	38.52	39.66	39.88	37.24	43.78
Female	49.45	50.39	55.08	61.48	60.34	60.12	62.76	56.22

Total Population Distribution (%)							
Age	Under 5	5-14	15-19	20-24	25-44	45-64	65 +
Male	6.76	11.30	4.77	3.65	10.60	5.50	1.21
Female	6.61	11.47	5.84	5.82	16.13	8.30	2.03

Gender Specific Distribution (%)							
Age	Under 5	5-14	15-19	20-24	25-44	45-64	65 +
Male	15.44	25.80	10.89	8.33	24.22	12.57	2.76
Female	11.76	20.41	10.39	10.36	28.70	14.76	3.62

Collective Age Distribution (%)							
Age	Under 5	5-14	15-19	20-24	25-44	45-64	65 +
Male and Female	13.37	22.77	10.61	9.47	26.73	13.80	3.24

4.7.3: 1881 Census and 1881 crime correlation

Recorded Crime	All Male Cases	Percent of Male Population	Percent of Total Population	All Female Cases	Percent of Female Population	Percent of Total Population	Total Crime Cases	Percent of Total Population
Breach of The Peace	1065	$\frac{1065}{61400} \times 100 = 1.73$	$\frac{1065}{140239} \times 100 = 0.76$	889	$\frac{889}{78839} \times 100 = 1.13$	$\frac{889}{140239} \times 100 = 0.63$	1954	$\frac{1954}{140239} \times 100 = 1.39$
Drunkenness	1173	$\frac{1173}{61400} \times 100 = 1.91$	$\frac{1173}{140239} \times 100 = 0.84$	640	$\frac{640}{78839} \times 100 = 0.81$	$\frac{640}{140239} \times 100 = 0.46$	1813	$\frac{1813}{140239} \times 100 = 1.29$

Source: 1881 Census, *PoR*, 1881.

4.7.4: 1881 Habitual Offenders Percentages

2 times		3 times		4 times		5 times		6 times	
M	F	M	F	M	F	M	F	M	F
328	175	88	69	34	30	11	13	3	13
65.2%	34.8%	56.1%	43.9%	53.1%	46.9%	45.8%	54.2%	18.8%	81.2%
20-30 times		30-40 times		40-50 times		50-60 times			
M	F	M	F	M	F	M	F		
42	45	12	30	7	17	1	11		
48.3%	51.7%	28.6%	71.4%	29.2%	70.8%	8.3%	91.7%		

1881 Habitual Offenders Population Readjustment Percentages

2 times		3 times		4 times		5 times		6 times	
M	F	M	F	M	F	M	F	M	F
328	136	88	54	34	23	11	10	3	10
70.7%	29.3%	62.0%	38.0%	59.6%	40.4%	52.4%	47.6%	23.1%	76.9%
20-30 times		30-40 times		40-50 times		50-60 times			
M	F	M	F	M	F	M	F		
42	35	12	23	7	13	1	9		
54.5%	45.5%	34.3%	65.7%	35.0%	65.0%	10.0%	90.0%		

4.8: Typical newspaper headlines when female offenders appeared at Dundee's Police Court in the period of this study

A beastly drunk daughter
A female assault
A female brawl
A female fight
A female pest
A female pickpocket
A female pugilist
A female rowdy
A furious woman
A girl convicted
A girl getting into trouble
A kind mother
A lady smasher
A lady swindler
A miserable woman
A noisy and violent woman
A peculiar girl
A pugnacious female
A pugnacious woman
A pugnacious young woman
A reckless woman
A shameless woman
A tartar in the police cells
An undutiful daughter
A very affectionate mother
A violent female
A wretched woman

Source: *The Weekly News* 1865–1925

Appendix for Chapter 5

5.1: The payment of fines 1876–1902

Year	Fines (£) Imposed	Fines (£) Recovered	Percentage Recovery
1876	3811	2188	57.42
1877	4048	2167	53.53
1878	4231	2084	49.26
1879	3647	1572	43.10
1880	3509	1627	46.37
1881	3231	1414	43.76
1882	3094	1294	41.82
1883	3844	1752	45.58
1884	4232	1818	42.96
1885	2694	1153	42.80
1886	2866	1171	40.86
1887	3087	1269	41.11
1888	2441	1107	45.35
1889	2656	1454	54.74
1890	2687	1313	48.86
1891	2690	1249	46.43
1892	2316	1025	44.26
1893	3077	1299	42.22
1894	2996	1278	42.66
1895	2438	1087	44.59
1896	2687	1526	56.79
1897	2039	935	45.86
1898	2518	1160	46.10
1899	2408	1187	49.29
1900	2479	1152	46.47
1901	2722	1253	46.03
1902	3034	1440	47.46

Source: *DYB*, 1876–1902

5.2.1: Proportion of male and females in Dundee convicted of petty crime 1871–1895

It has been found that a greater proportion of reports of assaults, breach of the peace and drunkenness resulted in trials for females than males. The proportion of male and female offenders reported to the police was calculated using the information in the tables [the calculation is shown in square brackets].

1871	Theft		Assault, Breach of the Peace, &c.		Drunkenness
	Male	Female	Male	Female	N/A
Apprehended or cited	144	89	644	415	
Tried at police instance	114 [79%]	59 [66%]	616 [96%]	400 [96%]	
Not tried	9 [6%]	4 [4%]	28 [4%]	15 [4%]	
Convicted	107 [74%]	56 [63%]	615 [95%]	392 [94%]	
Acquitted	7 [5%]	3 [3%]	1 [0.1%]	8 [2%]	
No proceedings	4 [3%]	3 [3%]	5 [0.8%]	3 [0.7%]	

1873	Theft		Assault, Breach of the Peace, &c.		Drunkenness
	Male	Female	Male	Female	N/A
Apprehended or cited	254	162	1031	816	
Tried at police instance	160 [63%]	115 [71%]	676 [66%]	686 [84%]	
Not tried	37 [15%]	3 [2%]	347 [34%]	128 [16%]	
Convicted	156 [61%]	111 [69%]	675 [65%]	683 [84%]	
Acquitted	4 [1.5%]	4 [2.4%]	1 [0.1%]	3 [0.4%]	
No proceedings	37 [15%]	3 [2%]	5 [0.5%]	12 [1.5%]	

1871	Theft		Assault, Breach of the Peace, &c.		Drunkenness
	Male	Female	Male	Female	N/A
Apprehended or cited	144	89	644	415	
Tried at police instance	114 [79%]	59 [66%]	616 [96%]	400 [96%]	
Not tried	9 [6%]	4 [4%]	28 [4%]	15 [4%]	
Convicted	107 [74%]	56 [63%]	615 [95%]	392 [94%]	
Acquitted	7 [5%]	3 [3%]	1 [0.1%]	8 [2%]	
No proceedings	4 [3%]	3 [3%]	5 [0.8%]	3 [0.7%]	

1875	Theft		Assault, Breach of the Peace, &c.		Drunkenness
	Male	Female	Male	Female	N/A
Apprehended or cited	241	183	1342	966	
Tried at police instance	173 [72%]	128 [70%]	833 [62%]	813 [84%]	
Not tried	4 [2%]	1 [0.5%]	501 [37%]	150 [16%]	
Convicted	164 [68%]	123 [67%]	818 [61%]	802 [83%]	
Acquitted	9 [4%]	5 [3%]	15 [1%]	11 [1%]	
No proceedings	2 [0.8%]	1 [0.5%]	12 [0.9%]	4 [0.4%]	

1877	Theft		Assault, Breach of the Peace, &c.		Drunkenness
	Male	Female	Male	Female	N/A
Apprehended or cited	452	256	2460	1300	
Tried at police instance	238 [53%]	118 [46%]	1418 [58%]	975 [75%]	
Not tried	150 [33%]	95 [37%]	1023 [42%]	321 [25%]	
Convicted	226 [50%]	115 [45%]	1330 [54%]	948 [73%]	
Acquitted	14 [3%]	7 [3%]	88 [4%]	27 [2%]	
No proceedings	148 [33%]	91 [36%]	265 [11%]	94 [7%]	

1877	Theft		Assault, Breach of the Peace, &c.		Drunkenness
	Male	Female	Male	Female	N/A
Apprehended or cited	452	256	2460	1300	
Tried at police instance	238 [53%]	118 [46%]	1418 [58%]	975 [75%]	
Not tried	150 [33%]	95 [37%]	1023 [42%]	321 [25%]	
Convicted	226 [50%]	115 [45%]	1330 [54%]	948 [73%]	
Acquitted	14 [3%]	7 [3%]	88 [4%]	27 [2%]	
No proceedings	148 [33%]	91 [36%]	265 [11%]	94 [7%]	

1880	Theft		Assault, Breach of the Peace, &c.		Drunkenness	
	Male	Female	Male	Female	Male	Female
Cases reported to police	1056	256	2373	1300	1864	
Apprehended or cited	534	222	1910	1131	1264	614
Tried at police instance	299 [56%]	114 [51%]	1339 [70%]	901 [80%]	756 [60%]	508 [83%]
Committed for trial	61 [11%]	33 [15%]				
Not tried	174 [33%]	75 [34%]	571 [30%]	230 [20%]	508 [40%]	106 [17%]
Convicted	286 [54%]	107 [48%]	1275 [67%]	861 [76%]	754 [60%]	508 [83%]
Acquitted	13 [2%]	7 [3%]	64 [3%]	40 [4%]	2 [0.2%]	
No proceedings	157 [29%]	66 [30%]	71 [4%]	4 [0.4%]	10 [0.8%]	4 [0.6%]
Proceedings begun and dropped	17 [3%]	9 [4%]	500 [26%]	189 [17%]	498 [39%]	10 [1.6%]

1884	Theft (simple)		Assault, Breach of the Peace, Dis C. and Petty Assaults		Drunk and Incapable	
	Male	Female	Male	Female	Male	Female
Apprehended or cited	296	175	1902	1119	1023	541
Tried at police instance	159 [54%]	88 [50%]	1257 [66%]	871 [78%]	537 [52%]	404 [75%]
Not tried	139 [47%]	94 [54%]	660 [35%]	254 [23%]	485 [47%]	140 [26%]
Convicted	149 [50%]	81 [46%]	1185 [62%]	826 [74%]	536 [52%]	404 [75%]
Acquitted	10 [2%]	7 [3%]	72 [3%]	45 [4%]	1 [0.1%]	

1885	Theft (simple)		Assault, Breach of the Peace, Dis C. and Petty Assaults		Drunk and Incapable	
	Male	Female	Male	Female	Male	Female
Apprehended or cited	291	98	1361	799	743	426
Not tried	122 [42%]	54 [55%]	420 [31%]	179 [22%]	339 [46%]	101 [24%]
Convicted	163 [56%]	43 [44%]	906 [67%]	586 [73%]	406 [55%]	322 [76%]
Acquitted	6 [2%]	2 [2%]	33 [2%]	69 [9%]	4 [0.5%]	5 [1%]

1890	Theft (simple)		Assault, Breach of the Peace, Dis C. and Petty Assaults		Drunk and Incapable	
	Male	Female	Male	Female	Male	Female
Apprehended or cited	225 ¹²⁴⁸	123	2124	1081	631	494
Not tried	115 [51%]	83 [67%]	1494 [70%]	813 [75%]	340 [54%]	377 [76%]
Convicted	110 [49%]	75 [61%]	1449 [68%]	779 [72%]	340 [54%]	377 [76%]
Acquitted	5 [2%]	8 [7%]	45 [2%]	34 [3%]		2 [0.4%]

1895	Theft (simple)		Assault, Breach of the Peace, Dis C. and Petty Assaults		Drunk and Incapable	
	Male	Female	Male	Female	Male	Female
Apprehended or cited	236	118	1542	730	859	511
Convicted	95 [40%]	35 [30%]	1035 [67%]	538 [74%]	407 [47%]	443 [87%]
Proceedings begun and dropped	120 [51%]	81 [69%]	23 [1%]	45 [6%]	6 [0.7%]	7 [1%]
Acquitted	4 [2%]	1 [0.8%]	223 [14%]	90 [12%]		

1895	Theft (simple)		Assault, Breach of the Peace, Dis C. and Petty Assaults		Drunk and Incapable	
	Male	Female	Male	Female	Male	Female
Apprehended or cited	236	118	2542	730	859	511
Convicted	110 [49%]	75 [61%]	1449 [68%]	779 [72%]	340 [54%]	377 [76%]
Acquitted	5 [2%]	8 [7%]	45 [2%]	34 [3%]		2 [0.4%]

‘Dis C’ = disorderly conduct. The various format changes in the police series accounts for the reduction in the information provided. The blank entries reflect the gaps in the originals.

Source: *PoR*, 1871–1895

¹²⁴⁸ 225 is given in the report. It seems it should be 228.

5.2.2: The average of male and female convictions as a proportion of cited crimes with calculations

Reports of assault and breach of the peace that lead to a conviction	Male	Female
1871	95%	94%
1873	65%	84%
1875	61%	83%
1877	54%	73%
1880	67%	76%
1884	62%	74%
1885	67%	73%
1890	68%	72%
1895	67%	74%
Average	67%	78%
Reports of drunkenness that lead to a conviction	Male	Female
1880	60%	83%
1884	52%	75%
1885	55%	76%
1890	54%	76%
1895	47%	87%
Average	54%	79%

Source: *PoR*, 1871–1895

5.3: Margaret Campbell or Greig's criminal record (with lenient sentences in bold)

Date of conviction	Crime	Place convicted	Court	Sentence
1901, Jan 29	theft	Glasgow	Police ct	7 days' imprisonment
1903, May 2	"	"	"	Admonished
1903, June 4	"	"	Sherriff	1 month's imp
1903, Aug 15	"	"	"	14 days
1903, Nov 3	"	"	"	3 months
1905, Dec 28	"	"	"	Admonished
1906, Feb 7	Reset	"	"	3 months' imp
1906, June 28	Theft	"	"	Admonished
1907, Aug 6	Reset.	"	"	12 months' imp
1908, Dec 7	"	"	"	12 months' imp
1910, June 22	Theft and being a Habitual Criminal	"	High court	3 years' penal servitude, and preventative detention for five years
1915, Sept 23	"	Dundee	Sherriff	unknown

Source: SC45/37/61

Appendix for Chapter 6

6.1: Pattern of recidivism at Dundee's police court from 1926–1939 (female figures in bold)

	1926		1927		1929		1930		1931		1932		1933	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
total	340	133	N/A		204	87	188	90	170	92	115	58	147	83
2X	267	65			148	55	133	58	123	48	75	33	101	51
3X	41	32			30	12	38	15	30	20	25	8	30	21
4X	21	15			18	9	7	9	6	11	8	10	7	7
5X	5	11			7	6	3	4	6	7	3	2	4	2
6X	4	4				2	6	1	4	2	1	3	4	2
7X	1	4					1	1	1	2		1	1	
8X	1	1				2		1				1		
9X		1			1	1				2		1		
10X														
11X														
12X								1						
13X														
14X														
15X														
16X														
17X														
18X														

1934		1935		1936		1937		1938		1939	
M	F	M	F	M	F	M	F	M	F	M	F
209	78	N/A		253	68	280	84	282	78	290	91
159	38			183	41	195	44	201	38	211	47
27	20			44	12	41	16	38	21	42	22
16	13			14	7	20	9	19	8	19	12
3	4			7	4	7	6	12	4	9	2
3	1			3	3	8	4	5	3	4	6
1						2	3	2	1	2	1
					1	1	1			1	
	2			1		2					1
						2		1			
				1			1	1		2	
									1		
								1			
				2					1		
								1			
								1			
								1			

Source: *PoR* 1926–1939 (1927, 1928 and 1935 returns missing)

6.2: Available loitering figures 1925–1937

1915	12
1916	4
1917	1
1918	1
1919	7
1920	
1921	17
1922	13
1923	6
1924	
1925	
1926	
1927	4
1928	
1929	
1930	
1931	
1932	
1933	
1934	
1935	
1936	1
1937	2

Source: *PoR*, 1937 p. 17